

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

April 10, 2018
5:00 p.m.

Banning Civic Center
Council Chamber
99 E. Ramsey Street

The following information comprises the agenda for a regular meeting of the City Council.

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 – Chaplain Merle Malland, Banning Police Department
- Pledge of Allegiance
- Roll Call – Council Members Andrade, Franklin, Peterson, Welch, Mayor Moyer

II. REPORT ON CLOSED SESSION

III. PRESENTATION

1. Proclamation – DMV Donate Life Month **1**
(Mayor George Moyer)

IV. PUBLIC COMMENTS / CORRESPONDENCE / ANNOUNCEMENTS & REPORTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

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

CORRESPONDENCE

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

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

- City Council Committee Reports
- Report by City Attorney
- 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: Approve Consent items 1 through 10: Items ____, ____, ____, to be pulled for discussion. *(Resolutions require a recorded majority vote of the total membership of the City Council)*

1.	Minutes – Special Meeting – 3/27/2018 (Closed Session).....	3
2.	Minutes – Regular Meeting – 3/27/2018	5
3.	Receive and File Contracts Approved Under City Manager’s Signature Authority	17
4.	Notice of Completion for Project 2017-14 “Lions Park Ballfield Fencing” ..	21
5.	Accept the Easement Dedications for APN 541-330-002 and 532-130-033 for Road and Drainage Purposes	27
6.	Adopt Resolution 2018-34, Authorizing the Approval of National Interest Letter of Support for 03 Worldwide, LLC.....	51
7.	Adopt Resolution 2018-37, Termination of License to Graze Cattle on City Property	59
8.	Adopt Resolution 2018-42, Accepting California Office of Emergency Services, California Transportation Security Grant Funds for Security Enhancements.....	83
9.	Adopt Resolution 2018-43, FBI Background Checks.....	93
10.	Adopt Resolution 2018-28, Obtaining Financial Assistance for Fiscal Year 2017/18 through California Department of Transportation (Caltrans) Low Carbon Transit Operations Program (LCTOP)	109

- Open Consent Items for Public Comments
- Make Motion

VI. REPORTS OF OFFICERS

1. Purchasing Division’s Performance Utilizing the Current e-Procurement System, with PlanetBids, Compared to the Previous Manual Process 117
(Staff Report – Jennifer McCoy, Purchasing Manager)

Recommendation: **Information only; receive and file Purchasing performance reports.**

2. Resolution 2018-46, Authorizing the Interim City Manager to Execute a Professional Services Agreement with BKD, LLP to Perform an Audit of the Electric Utility and Billing Departments 181
(Staff Report – Rochelle Clayton, Interim City Manager)

Recommendation: **Adopt Resolution 2018-46, authorizing the Interim City Manager to execute a Professional Services Agreement with BKD, LLP in the amount of \$57,900 to perform an audit of the Electric Utility and Billing Departments, and authorize the necessary budget adjustments.**

3. Resolution 2018-33, Approving an Agreement for the Purchase of Real Property at 162 N. San Gorgonio Avenue from the Rochelle Revocable Living Trust 2011 in an Amount Not to Exceed \$36,050 341
(Staff Report – Ted Shove, Economic Development Manager)

Recommendation: **Adopt Resolution 2018-33; 1) approving the Agreement for Purchase and Sale and Escrow Instructions for 162 N. San Gorgonio Avenue with Rochelle Revocable Living Trust 2011, 2) authorizing the Mayor to execute the Agreement, Escrow Instructions and Certificate of Acceptance, and 3) authorizing the Administrative Services Director to make the necessary budget adjustments and appropriations for Fiscal Year 2018.**

4. Resolution 2018-38, Approving the WSPP Confirmation Letter – Resource Adequacy Purchase Agreement with Shell Energy North America (US), LP for Calendar Year 2019..... 363
(Staff Report – (Tom Miller, Electric Utility Director)

Recommendation: **Adopt Resolution 2018-38; approving the WSPP Confirmation Letter – Resource Adequacy purchase agreement with Shell Energy North America (US), LP for Calendar Year 2019, and authorizing the Electric Utility Director or their designee to execute the purchase agreement with Shell Energy North America.**

5. Ordinance 1520 Amending Existing Sections of Chapter 12.52 of the Banning Municipal Code that Established a Local Development Mitigation Fee for Funding the Preservation of Natural Ecosystems in Accordance with the Western Riverside County Multiple Species Habitat Conservation Plan to Bring Those Sections into Conformance with the Updated Standards and Provisions 387
(Staff Report – Rochelle Clayton, Interim City Manager)

Recommendation: **Ordinance 1520 pass its first reading.**

Mayor asks the City Clerk to read the title of Ordinance 1520

“An Ordinance of the City of Banning Amending Existing Sections of Chapter 12.52 of the Banning Municipal Code that Established a Local Development Mitigation Fee for Funding the Preservation of Natural Ecosystems in Accordance with the Western Riverside County Multiple Species Habitat Conservation Plan to Bring Those Sections into Conformance with the Updated Standards and Provisions.”

Motion: I move to waive further reading of Ordinance 1520
(Requires a majority vote of the Council)

Motion: I move that Ordinance No. 1520 pass its first reading.

- 6. Resolution 2018-36, Approving a One-Year Contract Extension with Charles Abbott Associates, Inc. to Continue Providing Building & Safety Services **411**
(Staff Report – Patty Nevins, Community Development Director)

Recommendation: Adopt Resolution 2018-36, approving a one-year extension to an existing Professional Services Agreement between the City of Banning and Charles Abbott Associates, Inc. to provide Building & Safety services to the City of Banning through June 30, 2019 and amending the agreement to increase the compensation rate paid to 91% of building permit fees and plan check fees collected by the City.

- 7. Resolution 2018-35, Approving the Measure “A” Five Year Capital Improvement Plan Project List and Authorizing the Interim City Manager to Execute the Maintenance of Effort Certification Statement **473**
(Staff Report – Art Vela, Public Works Director)

Recommendation: Adopt Resolution 2018-25, approving the Measure “A” Five Year Capital Improvement Plan Project List and authorizing the Interim City Manager to execute the Maintenance of Effort Certification Statement.

- 8. Resolution 2018-41, Confirming the Appointment of Robert Fisher to the Position of Interim Police Chief effective April 10, 2018 and Approving an Interim Police Chief Agreement **491**
(Staff Report – Rochelle Clayton, Interim City Manager)

Recommendation: Adopt Resolution 2018-41, confirming the appointment of Robert Fisher to the position of Interim Police Chief effective April 10, 2018 and approving the Interim Police Chief Agreement in connection therewith.

9. Resolution 2018-32, Acceptance of the 2017 State Homeland Security Program (SHSP) Grant in the amount of \$69,208 and approval of equipment purchases from Motorola Solutions, Inc., Bear Communications, Inc. and Dell Computer Corp. for the Mobile Command Center **507**
(Staff Report – Robert Fisher, Police Lieutenant)

Recommendation: **Adopt Resolution 2018-32, authorizing the acceptance of the 2017 SHSP Grant through the Riverside County Emergency Management Department in the amount of \$69,208 to complete the upgrade to the communication system in the department’s mobile command center.**

BANNING UTILITY AUTHORITY (BUA) – no meeting.

BANNING FINANCING AUTHORITY (BFA) – no meeting.

VII. ITEMS FOR FUTURE AGENDAS

New items –

Pending Items – City Council

1. Information Technology – Media Room/Production Set
2. Penalty for Illegal Fireworks
3. Update on Armory Lease
4. Mills Act – Additional Information
5. WRCOG HERO Program
6. Highland Home Road Interchange
7. Fee Waiver Update (November)

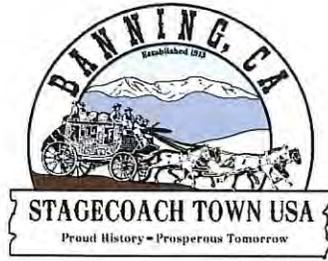
VIII. ADJOURNMENT

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]

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.



PROCLAMATION

WHEREAS, organ, tissue, marrow and blood donation are life-giving acts recognized worldwide as expressions of compassion to those in need; and

WHEREAS, more than 118,000 individuals nationwide and almost 21,000 in California are currently on the national organ transplant waiting list, and on average, 22 people die each day while waiting due to the shortage of donated organs; and

WHEREAS, the need for donated organs is especially urgent in Hispanic and African American communities; and

WHEREAS, more than 600,000 units of blood per year are needed to meet the need in California and at any given time, 6,000 patients are in need of volunteer marrow donors; and

WHEREAS, a single individual's donation of the heart, lungs, liver, kidneys, pancreas and small intestine can save up to eight lives; donation of tissue can save and heal the lives of up to 50 others; and a single blood donation can help three people in need; and

WHEREAS, millions of lives each year are saved and healed by donors of organs, tissues, marrow and blood and the spirit of giving and decision to donate are not restricted by age or medical condition; and

WHEREAS, over twelve million Californians have signed up with the state-authorized Donate Life California Donor Registry to ensure their wishes to be organ, eye and tissue donors are honored; and

WHEREAS, California residents can sign up with the Donate Life California Donor Registry when applying for or renewing their driver's licenses or ID cards at the California Department of Motor Vehicles.

NOW, THEREFORE, BE IT RESOLVED, that I, George Moyer,, Mayor of the City of Banning along with the City Council in recognition of National Donate Life Month, hereby proclaim the month of April 2018 as **"DMV/Donate Life California Month"** in the city of Banning, and in doing so we encourage all Californians to check "YES!" when applying for or renewing their driver's license or I.D. card, or by signing up at www.donateLIFeCalifornia.org or www.doneVIDAcalifornia.org

IN WITNESS WHEREOF, I have set my hand and caused the seal of the City of Banning, California to be affixed this 10th day of April, 2018.

ATTEST:

Sonja De La Fuente, Deputy City Clerk

George Moyer, Mayor

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

03/27/18
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Moyer on March 27, 2018, at 4:00 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Council Member Andrade
Council Member Franklin
Council Member Peterson
Council Member Welch
Mayor Moyer

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Rochelle Clayton, Deputy City Manager
Kevin Ennis, City Attorney
Robert Meteau, Deputy HR Director
Ted Shove, Economic Development Manager
Marie Calderon, City Clerk

CLOSED SESSION

Mayor Moyer opened the closed session items for public comments. Seeing none, closed public comment.

City Attorney Kevin Ennis listed the items on the closed session agenda, which included:

- 1) CONFERENCE WITH LABOR NEGOTIATORS – Pursuant to Government Code Section 54957.6. Agency Designated Representatives: George Moyer, Mayor and Robert Meteau, Human Resources Director. Unrepresented Employee: Interim City Manager
- 2) PUBLIC EMPLOYEE APPOINTMENT: City Manager – Pursuant to Government Code Section 54957.
- 3) CONFERENCE WITH LABOR NEGOTIATOR – Pursuant to Government Code Section 54957.6 Agency designated representative: Deputy City Manager Rochelle Clayton. Employee Organizations: Banning Police Management Association (BPMA)
- 4) CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Pursuant to Government Code Section 54956.8: Property description: APN: 532-130-012, 532-130-018, and 532-130-011, Banning Municipal Airport. City Negotiator: Rochelle Clayton, Interim City Manager and Ted Shove, Economic Development Manager –

Negotiating Parties: BRAD Partners, LLC., Robert Ardolino; Under Negotiation: Price and Terms

- 5) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Fields v. City of Banning, Riverside County Superior Court Case No. RIC 1102234 and Court of Appeal Case No. E057277
- 6) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Name of Cases: City of Banning v. Hendon, Riverside Superior Court Case No. RIC 1401424; In re: Marc L. Hendon, Sr., U.S. Bankruptcy Court, Central District of California – Riverside Divisions, Case No. 6:17-bk-18214-SY

The Meeting convened closed session at 4:01 p.m. and reconvened to open session at 4:47 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 4:47 p.m.

Minutes Prepared by:

Sonja De La Fuente, Deputy City Clerk

A regular meeting of the Banning City Council was called to order by Mayor Moyer on March 27, 2018, at 5:00 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Council Member Andrade
Council Member Franklin
Council Member Peterson
Council Member Welch
Mayor Moyer

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Rochelle Clayton, Interim City Manager
Kevin Ennis, City Attorney
Alex Diaz, Police Chief
Heidi Meraz, Community Services Director
Patty Nevins, Community Development Director
Art Vela, Public Works Director/City Engineer
Suzanne Cook, Deputy Finance Director
Michelle Devoux, Fire Marshal
Marie Calderon, City Clerk
Laurie Sampson, Executive Assistant
Leila Lopez, Office Specialist

The Invocation was given by Pastor Jerry Westholder. Council Member Franklin led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney Ennis listed the items 1) CONFERENCE WITH LABOR NEGOTIATORS – Pursuant to Government Code Section 54957.6. Agency Designated Representatives: George Moyer, Mayor and Robert Meteil, Human Resources Director. Unrepresented Employee: Interim City Manager. Direction was given and there is an item on the open session agenda related to this matter. 2) PUBLIC EMPLOYEE APPOINTMENT: City Manager – Pursuant to Government Code Section 54957. A status report with an update on this matter was provided to Council. 3) CONFERENCE WITH LABOR NEGOTIATOR – Pursuant to Government Code Section 54957.6 Agency designated representative: Deputy City Manager Rochelle Clayton. Employee Organizations: Banning Police Management Association (BPMA). Direction was given to the City's negotiator regarding the matter. 4) CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Pursuant to Government Code Section 54956.8: Property description: APN: 532-130-012, 532-130-018, and 532-130-011, Banning Municipal Airport. City Negotiator: Rochelle Clayton,

Interim City Manager and Ted Shove, Economic Development Manager – Negotiating Parties: BRAD Partners, LLC, Robert Ardolino; Under Negotiation: Price and Terms. Direction was given on whether to complete an ENA related to the project. 5) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Fields v. City of Banning, Riverside County Superior Court Case No. RIC 1102234 and Court of Appeal Case No. E057277. A status report was provided and matters to effectuate the dismissal of the case. 6) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Name of Cases: City of Banning v. Hendon, Riverside Superior Court Case No. RIC 1401424; In re: Marc L. Hendon, Sr., U.S. Bankruptcy Court, Central District of California – Riverside Divisions, Case No. 6:17-bk-18214-SY. A status report was provided regarding the bankruptcy action and issues related to it with no reportable action.

The Mayor recessed the regular meeting of the Banning City Council and called to order a Joint Meeting of the Banning City Council and the Banning Utility Authority.

PRESENTATION

1. Proclamation – Mental Health Month

Mayor Moyer read a portion of the proclamation prepared declaring May 2018 as Mental Health Month.

PUBLIC COMMENTS / CORRESPONDENCE / ANNOUNCEMENTS & REPORTS

PUBLIC COMMENTS

Ellen Carr informed everyone the Animal Action League will be at the Community Center March 28, 2018, with their mobile spay and neuter clinic and a low cost shot clinic from 10:00 a.m. until 2:00 p.m. They will be here again April 18-19, 2018. If anyone is interested in getting their pet spayed or neutered call (760) 366-1100 as soon as possible. In regard to her utility bills she had 31 days on last month's bill and 32 days on this month's bill, resulting in \$0.70 - \$1.60 charge. This combined with a rate increase in water may become a hardship. She would still like to know what "other pay" entails and what benefits the City employees receive.

Inge Schuler thanked Lt. Fisher and Animal Control for an efficient response to a starving horse. She requested continued (weekly) vigilance by the City's Code Enforcement division with cooperation from Animal Control.

Brian McDonald, Government Affairs Representative with Southern California Edison, provided an update on the West of Devers Project. Construction will begin in 2018 and will be intermittent and scheduled for completion in 2012. He encouraged the community to pay attention to posted signage and detours. The project hotline is 1-888-226-9916 for any questions or comments from community members.

Council Member Welch asked if this project would interfere with any of the youth programs held at City parks. Interim City Manager Clayton advised that letters will go out to property owners within 300 feet of the project and the notices will be posted on the City's website as well. Public Works Director Vela explained that the project does not run through any City parks. It runs from the Pardee project to the cemetery over to the Robertson's mine. Council Member Franklin suggested using social media to get the word out. She also asked how long the intermittent outages would be, as she is concerned about people with medical devices.

Jerry Westholder expressed his disappointment in the loss of Chief Diaz. He praised Jason Smith, Electric Operations Manager, for assisting him with some discrepancies found at his church. He is against any increases for in the water rates. He would like the City to take another look at this before increasing rates and consider its residents.

CORRESPONDENCE

There was no correspondence received.

ANNOUNCEMENTS & REPORTS

Council Member Welch sits on the Cannabis Ad Hoc Committee and they have scheduled a workshop for April 10th to make a recommendation.

Council Member Andrade attended a Bronco Spirit event last Saturday. She was impressed with the youth and felt it was a good community event. She also attended the Banning Pass Little League Opening Day and thanked Jim and Ann Price for everything. On Thursday there will be a Welcome Home Veterans event at the City of Beaumont and she encouraged the community to attend and show their support.

Council Member Franklin attended the Riverside County Transportation Commission last week. The Disaster Survival Expo will be on April 28th from 10:00 a.m. until 2:00 p.m. at Banning City Hall. The Water Alliance meeting will be held at 5:00 p.m. tomorrow at City Hall. Kiwanis will hold its Annual Easter Egg Hunt at 10:00 a.m. on Saturday at Sylvan Park.

Mayor Moyer advised that a 2x2 Meeting was held with the City of Beaumont and discussed transit complications and will meet again next week. A 2x2 Meeting was also held with the Banning Unified School District and discussed CNG. He reminded the community that Waste Management will hold a Community Clean-Up Day at Dysart Park on April 14th from 8:00 a.m. until 1:00 p.m. They will take electronics, but will not take paint and medications.

REPORT BY CITY ATTORNEY

City Attorney Ennis did not have anything to report.

REPORT BY CITY MANAGER

Interim City Manager Clayton did not have anything to report.

CONSENT ITEMS

Mayor Moyer indicated that Item 4 was being pulled from the Consent Calendar for separate consideration.

1. Minutes – Special Meeting – 3/13/18 (Closed Session)

Recommendation: Approve the Minutes from the March 13, 2018 Special Meeting of the Banning City Council (Closed Session)

2. Minutes – Regular Meeting 3/13/18

Recommendation: Approve the Minutes from the March 13, 2018 Regular Meeting of the Banning City Council

3. Accounts Payable and Payroll Warrants for February 2018

Recommendation: Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of February 2018

Mayor Moyer opened Consent Items 1 through 3 for public comment. Seeing none, closed public comment.

Motion Franklin/Andrade to approve Consent Items 1 through 3. Motion carried, 5-0.

Council Member Franklin indicated that she requested Consent Item 4 be pulled for discussion, as she has received questions and would like Public Works Director Vela to explain the report.

Director Vela advised that this report is to keep Council up to date on projects with contracts they are currently managing. Anything that doesn't have a contract will not appear on the list such as the Sun Lakes Extension or I-10 Interchange.

Mayor Moyer requested an update on the appraisals for the Joshua Palmer realignment at the next meeting.

4. Capital Improvement Projects Update

Recommendation: Receive and File

Mayor Moyer pointed out Item 7 from the Consent Items, congratulating the Water Department for their special recognition and thanked them for a good job.

The Mayor opened the item for public comment. Seeing none, closed public comment.

Motion Franklin/Peterson to approve Consent Item 4. Motion carried, 5-0.

REPORTS OF OFFICERS

1. Resolution 2018-31, Confirming the Appointment of Rochelle Clayton to the Position of Interim City Manager and Approving an Interim City Manager Agreement with Rochelle Clayton

Deputy Human Resources Director Robert Meteau presented the Staff Report as contained in the Agenda packet.

Mayor Moyer made an announcement consistent with Section 54953(c)(3) of the Government Code and Section 2.5 of the City Council Rules of Procedure providing a summary of the recommendation for final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive as defined in Section 3511.1(d) of the Government Code.

The Mayor opened the item for public comment. Seeing none, closed public comment.

Motion Welch/Franklin to adopt Resolution 2018-31; 1) confirming the appointment of Rochelle Clayton to the position of Interim City Manager and 2) approving an Interim City Manager Agreement with Rochelle Clayton. Motion carried, 5-0.

2. Resolution 2018-29, Authorizing the Police Department to Use Innovative Emergency Equipment to Outfit Five New Police Vehicles with Equipment and to Upgrade Current Patrol Vehicle Emergency Pursuit Bars under Riverside County Contract #SHARC-005516-006-09/19

Police Chief Alex Diaz thanked the Council and Citizens for allowing him to reach his goals over the last 13 years. He then presented the Staff Report as contained in the Agenda packet.

Council Member Franklin and Peterson asked for some clarification on the cost of the light bars.

The Mayor opened the item for public comment. Seeing none, closed public comment.

Motion Peterson/Welch to adopt Resolution 2018-29, authorizing the Police Department to utilize Innovative Emergency Equipment to outfit five new vehicles with equipment, remove equipment from three old patrol vehicles for use in the new vehicles, and upgrade existing emergency pursuit bars on patrol vehicles in an amount not to exceed \$62,978.00 (includes a 5% contingency), under Riverside County Contract #SHARC-005516-006-09/19. Motion carried, 5-0.

3. Resolution 2018-30, Temporarily Suspending Certain Business Related Planning Department Application Fees

Community Development Director Patty Nevins presented the Staff Report as contained in the Agenda packet.

Council Member Peterson clarified that the Business License fee would not be waived. He asked if the Conditional Use Permit fee and Sign Permit fee will be waived, what other fees would need to be paid. Director Nevins informed the Council that there may be inspection fees. Council Member Peterson asked how the public would be informed of this if approved. Director Nevins advised the City can put the word out on social media, on the City's website and at the counter when anyone comes in. Mayor Moyer will let the local newspaper know. Director Nevins will bring back a report on a quarterly basis to keep the Council up to date.

Council Member Franklin asked about how this would impact the fee study. Director Nevins advised that the moratorium of fees would not affect the fee study. Council Member Franklin asked when the fee study would be coming back and Manager Clayton advised it goes back to the Finance Committee on April 16th and a workshop would be held on April. 24th.

Council Member Welch is in support of a one year moratorium.

Council Member Andrade wanted it to be clear that this will only apply to new businesses coming in, not those already in existence.

Mayor Moyer advised that if the business does not have a sign, they could get a sign permit during this period.

Council Member Andrade is looking forward to seeing what businesses this attracts. She pointed out that the fiscal impact is approximately \$42,000 to the general fund based on fees collected last year. She asked some additional questions in regard to time frame to establish a business. Director Nevins provided information as needed.

The Mayor opened the item for public comment.

David Ellis suggested advertising this in some trade magazines, the Press Enterprise, and the Sun Telegram.

Seeing no further comments, the Mayor closed public comment.

Motion Peterson/Welch to adopt Resolution 2018-30, temporarily suspending certain business related Planning Department Application Fees. Motion carried, 5-0.

4. Options for the City's Compressed Natural Gas (CNG) Fueling Facility

Public Works Director Vela presented the Staff Report as provided in the Agenda packet.

Council Member Peterson asked for some clarification as to why the City of Beaumont is receiving so much money. Director Vela explained they have accumulated it over several years and hadn't spent it.

There was some discussion regarding the operation and maintenance costs. Council Member Franklin advised the 2x2 Committee recommendation is equitable sharing of all expenses.

Council Member Andrade requested clarification on which option is being recommended by the Budget & Finance Committee. Mayor Moyer indicated it is now Option two since the School District has \$400,000 to put toward the project.

The Council would like the operation and maintenance agreement to be finalized prior to moving forward.

The Mayor opened the item for public comment.

Kerry Mariner, School Board Trustee, informed the Council the Board approved the Resolution. She believes two separate systems would cost the taxpayers

Rick Pippenger recommended the Council not approve anything until something is brought back.

David Ellis asked for clarification on why the School District would be responsible for paying operation and maintenance of the facility and paying full retail price for the fuel.

Mayor Moyer informed the public the Council will not be moving forward with any type of construction and joint agreement.

Council Member Franklin clarified that the Council is being asked to provide staff with direction on which option to move forward with.

Seeing no further comments, the Mayor closed public comment.

Motion Franklin/Peterson to direct staff to move forward with option 2 as presented and prepare an agreement with Banning Unified School District related to the fair and equitable operation and maintenance of the facility. Motion carried, 5-0.

5. Resolution 2018-23, Awarding a Construction Agreement to Epsilon Engineering of Moreno Valley for Project No. 2017-01, Community Center and Senior Center Tenant Improvements, and Resolution 2018-24, Approving the reprogramming of Fiscal Year (FY) 2017/18 Community Development Block Grant (CDBG) Funding

Public Works Director Vela presented the Staff Report as provided in the Agenda packet.

Council Member Welch wanted to make sure there was still funding for Lions Park. Director Vela explained that the 18/19 funding is for Lions Park and provided an update on that project's progress.

Council Member Andrade asked for a detailed report from the Budget & Finance Committee in regard to the funding. She also asked what would be compromised at Lions Park with the reprogramming of these funds. Director Vela explained there would only be a delay on the Lions Park improvements with \$172,000 being reprogrammed to the Community Center and Senior Center tenant improvements. She expressed some concern with dipping into the City's reserves.

Mayor Moyer provided further clarification on the allocations of CDBG funds.

There was some discussion among the Council in regard to the repairs needed at the Community Center.

Council Member Franklin recommended staff request future funding not be reduced.

The Mayor opened the item for public comment. Seeing none, closed public comment.

Motion Franklin/Welch to adopt Resolution 2018-23; a) approving a Construction Agreement with Epsilon Engineering of Moreno Valley for Project No. 2017-01, Community Center and Senior Center Tenant Improvements, in the amount of \$393,554 plus a 10% contingency for a total project budget of \$432,910 and rejecting all other bids, b) authorizing the Interim City Manager or her designee to make necessary budget adjustments, appropriations, transfers and approval of change orders related to the Construction Agreement within the 10% contingency, and c) authorizing the Interim City Manager or her designee to execute the Construction Agreement, and 2) adopt Resolution 2018-24; a) approving the reprogramming of FY 2017/18 CDBG funding originally allocated for the expansion of Lions Park (Program 5.BN.36-17) in the amount of \$172,516 to Project No. 2017=01, Community Center and Senior Center Tenant Improvements (Program 5.BN.34-16), and 2) authorizing the Interim City Manager or her designee to make necessary budget adjustments, appropriations, and transfers related to the reprogramming of FY 2017/18 CDBG funds and any other additional related actions as necessary to reprogram 2017/18 CDBG funds. Motion carried, 5-0.

The Mayor recessed the Regular City Council Meeting and called to order a scheduled meeting of the Banning Utility Authority.

BOARD MEMBERS PRESENT: Board Member Andrade
Board Member Franklin
Board Member Peterson
Board Member Welch
Chairman Moyer

BOARD MEMBERS ABSENT: None

REPORTS OF OFFICERS

1. Resolution 2018-04 UA, Approving the Purchase of a Dump Truck

Public Works Director Vela presented the Staff Report as provided in the Agenda packet.

Chairman Moyer questioned the effectiveness of PlanetBids, as it seems the City is receiving a lot of minimum bids.

Board Member Andrade recommended advertising everywhere to attract more bidders.

The Chairman opened the item for public comment. Seeing none, closed public comment.

Motion Peterson/Welch to adopt Resolution 2018-04 UA, 1) approving the purchase of a new 2019 Dump Truck from Los Angeles Truck Centers, LLC of Los Angeles in the amount of \$121,499, and 2) authorizing the Interim City Manager or her designee to make the necessary budget adjustments, appropriations and transfers related to the purchase of the dump truck. Motion carried, 5-0.

2. Water and Wastewater Proposition 218 Notice of Proposed Rate Update

Interim City Manager Clayton presented the Staff Report as provided in the Agenda packet.

Board Member Peterson explained that if the notice is going to a property owner the Assessor's Parcel Number (APN) will be listed, if it is going to a renter then the account number will be listed. He wanted it to be clear that all rate payers would count.

Manager Clayton indicated that the notice will be in English and Spanish on the website and at the counter in City Hall.

City Attorney Ennis clarified that if a property owner of apartment building submits a protest and a renter of an apartment unit who is the customer submits the protest, only the customer (tenant) will be counted, so that two votes per unit are not counted.

There was some discussion held regarding Proposition 218 and the noticing requirements and the process.

The Chairman opened the item for public comment.

David Ellis would like some clarity on the protest form. He would like to know how many protest forms are needed to stop the rate increase. Manager Clayton explained it is 50% plus one and there are approximately 10,000 water meters in the City. He would like mobile home renters.

City Attorney Ennis explained that if the City doesn't have a legal right to bring a collection action against an individual mobile home owner because that person isn't the customer, then they would not in that instance be entitled to file a protest.

Jerry Westholder would like clarification in regard to which notice is correct in the agenda packet. Manager Clayton explained the updated notice is correct and is the notice that will be sent out. He encouraged the public to protest the rate increase.

Ellen Carr asked why the notice was being sent out separately from the bill. If not she suggested a note in the bill notifying the customers to look out for the notice. Manager Clayton explained that a lot of times people get their bill and don't notice other things in the envelope.

Board Member Andrade explained the importance of clearly marking the envelope this is Proposition 218 Notice.

Chairman Moyer announced the fact that one does not need to be a registered voter to file a protest.

Council Member Peterson reminded all that failure to respond is a "yes" vote to raise the rates.

Chairman Moyer encouraged everyone to read the information and make an informed decision.

Seeing no further comments, the Chairman closed public comment.

Motion Welch/Andrade to approve the updated Proposition 218 Notice and authorize Staff to mail written notice to customers and property owners of the proposed update to Water and Wastewater rates in compliance with all requirements of Proposition 218 and California State Law for the scheduled Public Hearing on May 22, 2018. Motion carried, 5-0.

The Mayor adjourned the scheduled Meeting of the Banning Utility Authority and reconvened the regular City Council Meeting.

ITEMS FOR FUTURE AGENDAS

There were no items for future agendas.

ADJOURNMENT

Mayor Moyer asked for a moment of silence in remembrance of Alfred Pasquali.

By common consent the meeting was adjourned at 7:05 P.M.

Minutes Prepared by:

Sonja De La Fuente, Deputy City Clerk

These Minutes reflect actions taken by the City Council. The entire discussion of this meeting can be found by visiting the following website: <https://banninglive.viebit.com/player.php?hash=OEnMXFb4DfIF> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Laurie Sampson, Executive Assistant

MEETING DATE: April 10, 2018

SUBJECT: List of Contracts Approved Under the City Manager's Signature Authority

RECOMMENDATION:

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

BACKGROUND:

City Council requested regular reports of contracts signed under the City Manager's signature authority of \$25,000 or less.

ATTACHMENT:

- 1) List of Contracts approved by City Manager

Reviewed and Approved by:



Rochelle Clayton, Interim City Manager

ATTACHMENT 1

List of Contracts

Contracts, Change Orders and Sole Sources Approved Within City Manager Signature Authority (March 7, 2018 - March 31, 2018)

City Manager Approval	Vendor	Description of Item/Service	Compensation Amount (Contract Total)	Department
8-Mar-2018	Packham and Toomey, Inc.	Fuel Tank Inspections, AQMD Testing & Certification	\$ 8,000.00	Public Works
12-Mar-2018	Card Integrators Corporation	Lamination machine and supplies	\$ 4,809.43	Police Dept.
14-Mar-2018	Bio-Tox Laboratories	Blood Alcohol Analysis	\$ 13,500.00	Police Dept.
24-Mar-2018	Pyro Spectacular	Fireworks Display for July 4th	\$ 25,000.00	Community Services

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Art Vela, Public Works Director

MEETING DATE: April 10, 2018

SUBJECT: Authorize the Interim City Manager to sign the Notice of Completion for Project No. 2017-14, "Lions Park Ballfield Fencing" as complete and direct the Deputy City Clerk to record the Notice of Completion

RECOMMENDED ACTION:

That the City Council accept Project No. 2017-14, "Lions Park Ballfield Fencing" as complete, authorize the Interim City Manager or her designee to sign the Notice of Completion and direct the Deputy City Clerk to record the Notice of Completion.

BACKGROUND:

On December 12, 2017 the City Council adopted Resolution No. 2017-113 awarding an Agreement to Econo Fence, Inc., of Riverside, CA in the amount of \$53,145 with the inclusion of a 10% contingency for a total budget amount of \$58,459.50 for the completion of Project No. 2017-14, "Lions Park Ballfield Fencing".

The scope of work under this project included the demolition and disposal of the existing chain link fencing along the perimeter segments of three (3) ballfields. Once fencing segments were removed, the contractor replaced the fencing with new commercial grade chain link fencing including the installation of all commercial grade galvanized steel posts, braces, gates, and all other appurtenances.

JUSTIFICATION:

The low bidder, Econo Fence, Inc. was awarded the contract and completed work on February 21, 2018. Public Works staff verified, through inspections, that the workmanship, materials, and procedures were satisfactory and that the contractor had met required obligations.

FISCAL IMPACT:

The original contract was awarded in the amount of \$53,145. Change Order No. 1 was processed in the amount of \$5,314.50 to cover material and costs for the installation of additional chain-link fencing and linear footage. The final contract amount for this project was \$58,459.50 which was within the allocated project budget approved under Resolution 2017-113. The project was funded by the Parks Division, Account No. 001-3600-461.90-06 (Land Improvements).

ALTERNATIVE:

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

Approved by:



Rochelle Clayton
Interim 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. 2017-14, "LIONS PARK BALLFIELD FENCING"

15
16 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the City
17 of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of the Civil
18 Code of the State of California, and Project No. 2017-14 is hereby accepted by the City of
19 Banning, pursuant to authority conferred by the City Council this April 10, 2018, and the
20 grantees consent to recordation thereof by its duly authorized agent.
21

22 That the OWNER, the City of Banning, and Econo Fence, Inc., of Riverside, California,
23 the vendee, entered into an agreement dated December 19, 2017 for Project No. 2017-14,
24 "Lions Park Ballfield Fencing".
25

26 The principal items of work included the removal, replacement and installation of chain-
27 link fencing at Lions Park Ballfields. The work was performed at Lions Park located at the
28 northwest corner of South Hargrave Street and Charles Street in City of Banning, CA
29 92220.
30

31 That the work was completed on February 19, 2018, for Project No. 2017-14 "Lions Park
32 Ballfield Fencing":

33 (1) The Nature of Interest was for chain-link fencing removal, replacement and
34 installation services completed on February 19, 2018 for Project No. 2017-14, "Lions Park
35 Ballfield Fencing".

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

(3) That said improvement work was performed at Lions Park located at the northwest corner of South Hargrave Street and Charles Street within the City of Banning, California 92220.

(4) That the original contractor for said improvement was Econo Fence, Inc., State Contractor's License No. 337734.

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

(6) The nature of interest is in fee.

Dated: April 10, 2018

CITY OF BANNING
A Municipal Corporation

By _____
Rochelle Clayton
Interim City Manager

APPROVED AS TO FORM:

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon



**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Art Vela, Director of Public Works

MEETING DATE: April 10, 2018

SUBJECT: Accept the Easement Dedications from APN 541-330-002 and 532-130-003 for Road and Drainage Purposes

RECOMMENDATION:

Accept the easement dedications from APN 541-330-002 and 532-130-003 for road and drainage purposes and direct the City Clerk to sign the certificates of acceptance and record said dedications.

JUSTIFICATION:

It is essential to obtain the easements so that the proposed drainage inlets can be constructed, operated and maintained.

BACKGROUND:

The Riverside County Flood Control and Water Conservation District (RCFC&WCD) proposes to construct an underground storm drain system comprised of approximately 200 feet of 7-foot wide by 4-foot high reinforced concrete Box (RCB) and approximately 3,700 feet of reinforced concrete pipe ranging in size from 48-inches to 72-inches in diameter which is intended to collect tributary flows from the watershed roughly bounded by the Interstate 10/Union Pacific Railroad to the north, Hargrave Avenue to the west, South Hathaway Street to the east, and Wesley Street to the South.

The underground storm drain would be constructed along South Hathaway Street, beginning at approximately East Barbour Street and extending approximately 0.5-mile south to Wesley Street and then continuing east along Wesley Street for approximately 0.25-mile to a proposed outlet at the Smith Creek Channel (see attached Vicinity Map).

As part of the project, there are two catch basins that will be installed on private properties, APN 541-330-002 and APN 532-130-003. The drainage inlets at these locations will be located immediately behind the existing curb along Hathaway Street.

The Public Works Department reached out to the affected property owners, Mr. Joseph Lacko (541-330-002) and Mr. John Weeks (532-130-003) to explain the project and purpose of the easements; they both are voluntarily providing the easement dedications.

FISCAL IMPACT:

Not applicable.

ALTERNATIVE

Reject the easement dedications. If rejected the proposed drainage inlets will not be constructed.

ATTACHMENTS:

1. Vicinity Map
2. Easement Dedications
3. Certificates of Acceptance

Approved by:



Rochelle Clayton
Interim City Manager

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The Public Works Department reached out to the affected property owners, Mr. Joseph Lacko (541-330-002) and Mr. John Weeks (532-130-003) to explain the project and purpose of the easements; they both are voluntarily providing the easement dedications.

FISCAL IMPACT:

Not applicable.

ALTERNATIVE

Reject the easement dedications. If rejected the proposed drainage inlets will not be constructed.

ATTACHMENTS:

1. Vicinity Map
2. Easement Dedications
3. Certificates of Acceptance

Approved by:

Rochelle Clayton
Interim

City

Manager

ATTACHMENT 1

Vicinity Map



ATTACHMENT 2

Easement Dedications

<p>EXEMPT RECORDING REQUESTED BY City of Banning PER GOV'T CODE 6103 AND WHEN RECORDED MAIL TO:</p> <p>City of Banning – City Clerk P.O. Box 998 Banning, CA 92220</p> <p>MAIL TAX STATEMENTS TO:</p> <p>City of Banning – City Clerk P.O. Box 998 Banning, CA 92220</p>	
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

EASEMENT – ROAD AND DRAINAGE PURPOSES

The undersigned, being the present title owner(s) of record of the herein described parcel of land, do hereby make an irrevocable EASEMENT to the City of Banning, a political subdivision of the State of California, and its successors or assigns for public road, street, highway, and drainage purposes, the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (legal description) and shown on Exhibit "B" (plat map) attached hereto and incorporated herein by this reference as though set forth in full.

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council, or of the local governing bodies or its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 13th day of March, 2018.

<p><u>Cal Oak Partners a California General Partnership</u> Individual/Corporation (Type Name)</p> <p>_____ Signature</p> <p><u>Joseph M. Lacko, Authorized Signer</u> Name and Title (Type)</p>	<p>_____ Individual/Corporation (Type Name)</p> <p>_____ Signature</p> <p>_____ Name and Title (Type)</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------

See acknowledgements attached to this document.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

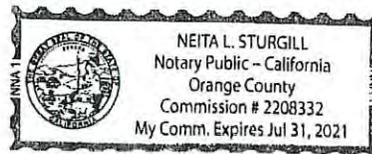
STATE OF CALIFORNIA)
)
County of Orange) ss.

On **March 13, 2018** before me, **Neita L. Sturgill**, Notary Public, personally appeared **Joseph M. Lacko**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 Neita L. Sturgill



RIVERSIDE COUNTY PLANNING AND CONSTRUCTION
AND WATER CONSERVATION DISTRICT

EXHIBIT "A"

LEGAL DESCRIPTION

BANNING MDP LINE II

Parcel No. 5177-3

Fee

APN 541-330-002

In the City of Banning, County of Riverside, State of California, being that portion of Lot 184 of the Banning Colony Lands, filed in Book 5, Page 186, of maps, records of said County, described as follows:

Commencing at the southeasterly corner of said Lot;

Thence North $01^{\circ} 06' 37''$ East 195.50 feet along the easterly line of said Lot to the **Point of Beginning**;

Thence continuing along said easterly line North $01^{\circ} 06' 37''$ East 42.00 feet;

Thence North $88^{\circ} 53' 23''$ West 10.00 feet;

Thence South $01^{\circ} 06' 37''$ West 42.00 feet;

Thence South $88^{\circ} 53' 23''$ East 10.00 feet to the **Point of Beginning**.

Containing 420 square feet/0.010 acre.

The distances shown herein are in grid. Ground distances may be obtained by dividing grid distance by the combination factor of 0.99990718.

See Exhibit "B" attached hereto and made a part hereof.




JAMES R. McNEILL,
Land Surveyor No. 7752

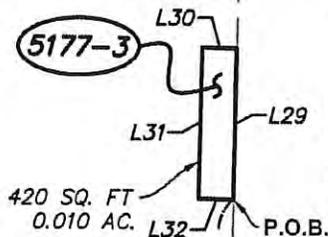
Date: 1-9-18

EXHIBIT "B"

BANNING COLONY LANDS
MB 5/186

LOT 184

LOT 84



N1°06'37"E
HATHAWAY STREET

N1°06'37"E 195.50'

30' 30'

SOUTH LINE OF LOT 184
M.B. 5/186

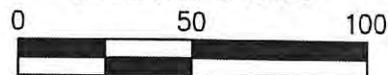
N89°32'09"W

P.O.C.

N0°20'16"E



GRAPHIC SCALE



1 INCH = 50 FT.

Line Table		
Line #	Length	Direction
L29	42.00'	N01°06'37"E
L30	10.00'	N88°53'23"W
L31	42.00'	S01°06'37"W
L32	10.00'	S88°53'23"E

N89°14'03"W

WESTWARD AVENUE

WAVERLEY TRACT
MB 8/44

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
1995 MARKET ST. RIVERSIDE, CA. 92501

PROJECT NAME:	BANNING MDP LINE H	SCALE	1"=50'	DRAWN BY	SB
RCFC-WCD PARCEL NUMBER(S):	PARCEL 5177-3	DATE	12/20/17	CHECKED BY	SL
RCFC-WCD PROJECT NUMBER:	5-8-00177	SHEET NO.	1 OF 1		

ACCEPTANCE CERTIFICATE

The City of Banning hereby accepts the EASEMENT hereby attached and consents to the recordation of this document as set forth above by _____, on behalf of the Grantee pursuant to the authority delegated to him by City Council Resolution No. _____, adopted on _____. Nothing herein is intended nor shall anything herein be construed as acceptance of the property until such dedication has been accepted by appropriate action of the City Council, as of the local governing bodies or its successors or assigns.

CITY OF BANNING

George Moyer
Mayor

ATTEST:

Marie A. Calderon
City Clerk

APPROVED AS TO FORM:

City Attorney

EXEMPT RECORDING
 REQUESTED BY
 City of Banning
 PER GOV'T CODE 6103
 AND WHEN RECORDED
 MAIL TO:

City of Banning – City Clerk
 P.O. Box 998
 Banning, CA 92220

MAIL TAX STATEMENTS
 TO:

City of Banning – City Clerk
 P.O. Box 998
 Banning, CA 92220

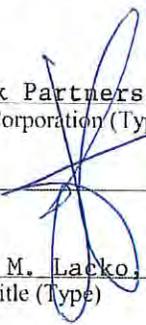
EASEMENT – ROAD AND DRAINAGE PURPOSES

The undersigned, being the present title owner(s) of record of the herein described parcel of land, do hereby make an irrevocable EASEMENT to the City of Banning, a political subdivision of the State of California, and its successors or assigns for public road, street, highway, and drainage purposes, the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (legal description) and shown on Exhibit "B" (plat map) attached hereto and incorporated herein by this reference as though set forth in full.

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council, or of the local governing bodies or its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 13th day of March, 2018.

<u>Cal Oak Partners a California General Partnership</u>	_____
Individual/Corporation (Type Name)	Individual/Corporation (Type Name)
	_____
Signature	Signature
<u>Joseph M. Lacko, Authorized Signer</u>	_____
Name and Title (Type)	Name and Title (Type)

See acknowledgements attached to this document.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
County of Orange)

On **March 13, 2018** before me, **Neita L. Sturgill**, Notary Public, personally appeared **Joseph M. Lacko**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 *Neita L. Sturgill*



RIVERSIDE COUNTY FLOOD CONTROL,
AND WATER CONSERVATION DISTRICT

EXHIBIT "A"

LEGAL DESCRIPTION

BANNING MDP LINE 11

Parcel No. 5177-4

Fee

APN 541-330-002

In the City of Banning, County of Riverside, State of California, being that portion of Lot 184 of the Banning Colony Lands, filed in Book 5, Page 186, of maps, records of said County, described as follows:

Commencing at the southeasterly corner of said Lot;

Thence North $01^{\circ} 06' 37''$ East 483.61 feet along the easterly line of said Lot, to the **Point of Beginning**;

Thence continuing along said easterly line North $01^{\circ} 06' 37''$ East 42.00 feet;

Thence North $88^{\circ} 53' 23''$ West 10.00 feet;

Thence South $01^{\circ} 06' 37''$ West 42.00 feet;

Thence South $88^{\circ} 53' 23''$ East 10.00 feet to the **Point of Beginning**.

Containing 420 square feet/0.010 acre.

The distances shown herein are in grid. Ground distances may be obtained by dividing grid distance by the combination factor of 0.99990718.

See Exhibit "B" attached hereto and made a part hereof.




JAMES R. McNEILL
Land Surveyor No. 7752

Date: 1-9-18

ACCEPTANCE CERTIFICATE

The City of Banning hereby accepts the EASEMENT hereby attached and consents to the recordation of this document as set forth above by _____, on behalf of the Grantee pursuant to the authority delegated to him by City Council Resolution No. _____, adopted on _____. Nothing herein is intended nor shall anything herein be construed as acceptance of the property until such dedication has been accepted by appropriate action of the City Council, as of the local governing bodies or its successors or assigns.

CITY OF BANNING

George Moyer
Mayor

ATTEST:

Marie A. Calderon
City Clerk

APPROVED AS TO FORM:

City Attorney

EXEMPT RECORDING
REQUESTED BY
City of Banning
PER GOV'T CODE 6103
AND WHEN RECORDED
MAIL TO:

City of Banning – City Clerk
P.O. Box 998
Banning, CA 92220

MAIL TAX STATEMENTS
TO:

City of Banning – City Clerk
P.O. Box 998
Banning, CA 92220

EASEMENT – ROAD AND DRAINAGE PURPOSES

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The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 18th day of JANUARY, 2018.

Individual/Corporation (Type Name)

Signature

John Weeks, President
Name and Title (Type)

Individual/Corporation (Type Name)

Signature

Name and Title (Type)

See acknowledgements attached to this document.

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Riverside }

On January 18th before me, Sandra Calderon, Notary Public
(Here insert name and title of the officer)

personally appeared JOHN PAUL WEEKS,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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.

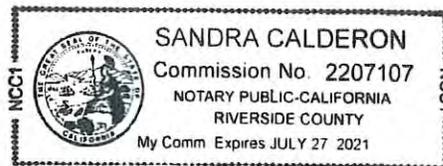
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sandra Calderon

Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT
EASEMENT-ROAD AND DRAINAGE PURPOSES
(Title or description of attached document)
APN 532-130-003
(Title or description of attached document continued)
Number of Pages 4 Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)

- Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

RIVERSIDE COUNTY FLOOD CONTROL,
AND WATER CONSERVATION DISTRICT

EXHIBIT "A"

LEGAL DESCRIPTION

BANNING MDP LINE H

Parcel No. 5177-5

Fee

APN 532-130-003

In the City of Banning, County of Riverside, State of California, being a portion of Parcel 4, described in the Grant Deed recorded January 22, 2016, Instrument No. 2016-0025190 of Official Records of said county, described as follows;

Commencing at the southwesterly corner of said Parcel;

Thence North $01^{\circ} 06' 37''$ East 35.33 feet along the westerly line of said Parcel to the **Point of Beginning**;

Thence continuing along said westerly line North $01^{\circ} 06' 37''$ East 83.00 feet;

Thence South $88^{\circ} 53' 23''$ East 10.00 feet;

Thence South $01^{\circ} 06' 37''$ West 83.00 feet;

Thence North $88^{\circ} 53' 23''$ West 10.00 feet to the **Point of Beginning**.

Containing 830 square feet/0.019 acre.

The distances shown herein are in grid. Ground distances may be obtained by dividing grid distance by the combination factor of 0.99990718.

See Exhibit "B" attached hereto and made a part hereof.





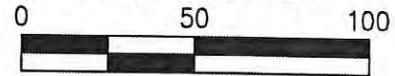
JAMES R. McNEILL
Land Surveyor No. 7752

Date: 1-9-18

EXHIBIT "B"



GRAPHIC SCALE



1 INCH = 50 FT.

Line Table		
Line #	Length	Direction
L37	35.33'	N01°06'37"E
L38	83.00'	N01°06'37"E
L39	10.00'	S88°53'23"E
L40	83.00'	S01°06'37"W
L41	10.00'	N88°53'23"W

BANNING COLONY LANDS
MB 5/186

LOT 182

RS 118/94

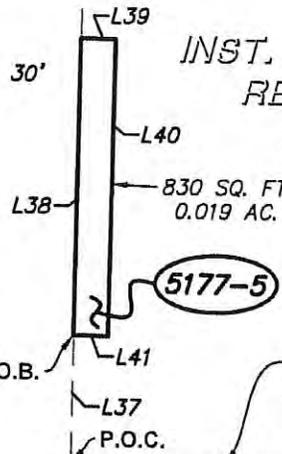
INST. # 67-52072
REC. 6/16/1967

N1°06'37"E

☉ HATHAWAY STREET

N1°06'37"E

44'



INST. # 2016-0025190
REC. 1/22/2016
PARCEL 4

830 SQ. FT
0.019 AC.

5177-5

SOUTH LINE OF PARCEL 4
PER INST. NO.. 2016-0025190

N89°20'23"W

N89°22'29"W

☉ BARBOUR STREET

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
1995 MARKET ST. RIVERSIDE, CA. 92501

PROJECT NAME:	BANNING MDP LINE H	SCALE	1"=50'	DRAWN BY	SB
RCFC-WCD PARCEL NUMBER(S):	PARCEL 5177-5	DATE	12/20/17	CHECKED BY	SL
RCFC-WCD PROJECT NUMBER:	5-8-00177	SHEET NO.	1 OF 1		

ACCEPTANCE CERTIFICATE

The City of Banning hereby accepts the EASEMENT hereby attached and consents to the recordation of this document as set forth above by _____, on behalf of the Grantee pursuant to the authority delegated to him by City Council Resolution No. _____, adopted on _____. Nothing herein is intended nor shall anything herein be construed as acceptance of the property until such dedication has been accepted by appropriate action of the City Council, as of the local governing bodies or its successors or assigns.

CITY OF BANNING

George Moyer
Mayor

ATTEST:

Marie A. Calderon
City Clerk

APPROVED AS TO FORM:

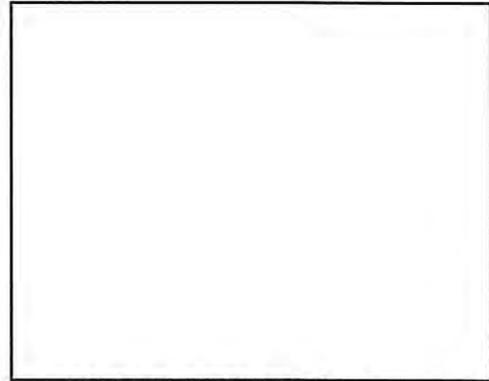
City Attorney

ATTACHMENT 3

Certificates of Acceptance

When Recorded Mail To:

City Clerk
City of Banning
P.O. Box 998
Banning, CA 92220



SPACE FOR RECORDER'S USE

**NO RECORDING FEE PER SECTION
6103 OF THE GOVERNMENT CODE.**

CERTIFICATE OF ACCEPTANCE

This is to certify that the Easement Dedications from **Joseph M. Lacko** dated March 13, 2018, is hereby accepted by THE CITY OF BANNING pursuant to authority conferred by the City Council this April 10, 2018, and the grantees consent to recordation thereof by its duly authorized agent.

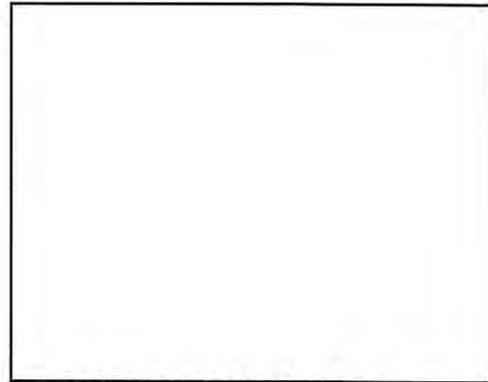
Dated: _____

CITY OF BANNING

By _____
Sonja De La Fuente, Deputy City Clerk

When Recorded Mail To:

City Clerk
City of Banning
P.O. Box 998
Banning, CA 92220



SPACE FOR RECORDER'S USE

**NO RECORDING FEE PER SECTION
6103 OF THE GOVERNMENT CODE.**

CERTIFICATE OF ACCEPTANCE

This is to certify that the Easement Dedications from **John P. Weeks** dated January 18, 2018, is hereby accepted by THE CITY OF BANNING pursuant to authority conferred by the City Council this April 10, 2018, and the grantees consent to recordation thereof by its duly authorized agent.

Dated: _____

CITY OF BANNING

By _____
Sonja De La Fuente, Deputy City Clerk



**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Ted Shove, Economic Development Manager

MEETING DATE: April 10, 2018

SUBJECT: Adopt Resolution 2018-34 authorizing the Approval for National Interest Letter of Support for O3 Worldwide, LLC.

RECOMMENDED ACTION:

That the City Council approve the draft letter of support and authorize the Mayor to execute it.

GOAL STATEMENT:

Economic Development Goal #4: Improve the competitive position of the City, appropriately use the City's properties, and develop the east side. By authorizing the Mayor to sign the draft letter of support, the O3 Worldwide, LLC organization may consider aviation-related development in and around the Banning Municipal Airport.

BACKGROUND:

For over a year, the City has been proactively seeking options to increase financial efficiencies throughout the organization, including the Banning Municipal Airport. Several months ago and more recently in March, representatives from O3 Worldwide, LLC. approached the City to discuss potentially expanding the existing Banning Municipal Airport, to accommodate additional aviation-related businesses and services, including ancillary functions such as aviation-related training programs. The draft Letter of Support provided (Attachment 2), would serve to alert the State Governor's Office that Banning is interested and seeking the State's assistance in moving forward with expanding the Banning Municipal Airport's role in the San Geronio Pass Region.

JUSTIFICATION:

The City Council is devoted to long term economic growth within the City and regional boundaries. By approving the draft Letter of Support, it formalizes the City's intent to pursue greater aviation-related opportunities for the Banning Municipal Airport.

FISCAL IMPACT:

None.

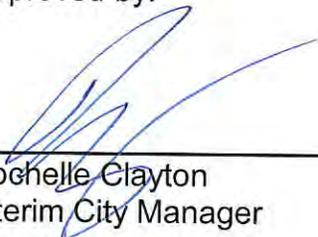
OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2018-34
2. Letter of Support to California Governor - Draft

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

Resolution 2018-34

RESOLUTION 2018-34

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A LETTER OF SUPPORT TO THE CALIFORNIA STATE GOVERNOR TO SUPPORT THE O3 SAN GORGONIO PASS AREA AVIATION PROGRAM

WHEREAS, the City of Banning desires to encourage long term economic growth throughout the region and throughout the City; and

WHEREAS, O3 Worldwide, LLC. approached the City regarding the potential expansion of the Banning Municipal Airport, to accommodate aviation repair, training, and various ancillary services, to be known as the O3 San Gorgonio Pass Area Aviation Program; and

WHEREAS, the City was requested to generate a Letter of Support for the O3 San Gorgonio Pass Area Aviation Program to the California Governor's Office; and

WHEREAS, the Letter of Support is requesting the California Governor's Office to support a National Interest Letter of Support to the United States Government to consider timely support of essential infrastructure projects like the O3 San Gorgonio Pass Area Aviation Program that will support the creation of jobs within the community.

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

SECTION 1. The Banning City Council adopts Resolution 2018-34 approving a Letter of Support for the O3 San Gorgonio Pass Area Aviation Program to the California Governor's Office.

SECTION 2. The Mayor is authorized to execute the Letter of Support.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

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

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-34, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 2

Letter of Support to California Governor - Draft



City of Banning Office of the City Council

April 10, 2018

Honorable Edmund G. Brown
California State Capitol
Office of the Governor
Sacramento, CA 95814

Subject: National Interest Letter of Support for O3 Worldwide, LLC

Dear Governor Brown:

The City of Banning writes in support of O3 Worldwide, LLC ("O3") and to request the State of California's support for the O3 San Geronio Pass Area Aviation Program. This shard initiative has been designed to bring tremendous benefit to the San Geronio Pass region in the form of cross-industry economic development and related job creation.

The O3 San Geronio Pass Area Aviation Program has the potential to significantly enhance and support the commercial aviation industry in the San Geronio Pass region, including expansion of domestic and international air passenger and air cargo services to airports in the San Geronio Pass Area and throughout California.

Due to the clear economic benefit of the O3 initiative to the San Geronio Pass area and California, including significant job creation and other economic development, the City of Banning is supportive of O3's aviation-related efforts in the San Geronio Pass Area and throughout California. The timely support of essential infrastructure projects like the O3 San Geronio Pass Area Aviation Program can expand economic prosperity throughout the San Geronio Pass region and the state.

On behalf of the Banning City Council, I respectfully request the State of California's support of O3, including the signing of a national interest letter in support of O3 to be addressed to the United States Government. The City of Banning appreciates your continued efforts to benefit the San Geronio Pass Area and our citizens.

Sincerely,

George Moyer
Mayor, City of Banning



**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Ted Shove, Economic Development Manager

MEETING DATE: April 10, 2017

SUBJECT: Adopt Resolution 2018-37, Termination of License to Graze Cattle on City Property

RECOMMENDED ACTION:

That City Council Adopt Resolution 2018-37:

1. Approving termination of license to graze cattle on City property; and
2. Authorize the Interim City Manager to execute a termination letter to the Licensee on the form that is approved by the City Attorney.

BACKGROUND:

In June 2002, the City Council approved a license with Jeffrey M. Doolittle for the purpose of cattle grazing in the Smith Creek Park area (City-owned property south of the wastewater treatment plant, north of Hwy 243 and the base of the mountains, within City boundaries). The license established formal permission for Mr. Doolittle to conduct cattle grazing operations on City-owned property south of Westward Avenue, including all of the Smith Creek Park area, for compensation in the amount of one dollar per year.

The license approved in June 2002, returned to the City Council on November 25, 2003 for ratification as it was not fully executed (Attachment 2). Since that time, Mr. Doolittle has added semi-permanent improvements (not authorized by the license) in the vicinity of Smith Creek Park, south of Smith Creek and most recently, in June and July 2017, was issued a cease and desist letter (July 18, 2018 - Attachment 3) for utilizing City-owned property north of Westward Avenue for cattle grazing.

During the summer of 2017 to the present, Mr. Doolittle has had a few interactions with a business operator located at the Banning Municipal Airport, Skydive West Coast ("SWC"). As a result of these interactions, SWC has had to cancel flight operations on a number of occasions, directly impacting their business and ability to pay their monthly lease obligations to the City. These interactions include compromising the designated landing zone by allowing cattle to graze on City-owned property and by locking and/or barricading a makeshift gate across Scott Road, just north of Westward Avenue. City staff have attempted to mediate these interactions and provided repeated verbal warnings to Mr. Doolittle regarding the allowed cattle grazing areas, with limited effectiveness.

JUSTIFICATION:

The license originally approved in 2003 for cattle grazing included City-owned land south of Westward Avenue, primarily in the Smith Creek Park area. Mr. Doolittle has and continues to utilize City-owned land without permission. In particular, the City-owned vacant land north of Westward Avenue that includes the area leased by the City to SWC designated as a "Landing Zone". The interaction of cattle and skydiving landings pose a threat and financial risk to the City, SWC, and Mr. Doolittle's operation. Mr. Doolittle was formally warned about these actions in July 2017 and provided additional verbal warnings from City staff since the letter.

For the purposes of minimizing potential litigation and unnecessary injury and/or property damage, it is recommended that the City Council approve the termination of the license with Jeffrey M. Doolittle for cattle grazing on City-owned property.

FISCAL IMPACT:

With the termination of the license, the City would lose the annual payment of one dollar per year.

OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2018-37
2. Staff Report and License Agreement, dated November 25, 2003
3. Cease and Desist Letter, dated July 18, 2017

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

Resolution 2018-37

RESOLUTION 2018-37

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
APPROVING THE TERMINATION OF A LICENSE GRANTED TO JEFFREY M.
DOOLITTLE TO GRAZE CATTLE ON CITY-OWNED PROPERTY**

WHEREAS, on November 25, 2003 under Resolution 2003-137, City Council approved a license agreement with Jeffrey M. Doolittle on City-owned property, south of Westward Avenue for cattle grazing; and

WHEREAS, on July 18, 2017, the City issued a cease and desist letter to Jeffrey M. Doolittle for extending cattle grazing onto unauthorized City-owned property, with the cattle grazing impacting a local business that has lease obligations to the City; and

WHEREAS, the City has provided numerous verbal warnings to Jeffrey M. Doolittle regarding the unauthorized cattle grazing and its potential for litigation, unnecessary injury, and property damage.

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

SECTION 1. The Banning City Council adopts Resolution 2018-37 terminating a license agreement with Jeffrey M. Doolittle for cattle grazing on City-owned property.

SECTION 2. The Interim City Manager is authorized to execute a termination notice, providing 30 days written notice, per Section Two of the license agreement with Jeffrey M. Doolittle, in a form approved by the City Attorney.

SECTION 3. The Interim City Manager is authorized to return all or part of the deposit provided by Jeffrey M. Doolittle, subject to satisfactory inspection of the premises identified in the license agreement.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

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

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-37, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 2

Staff Report and License Agreement, dated
November 25, 2003

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: November 25, 2003
TO: City Council
FROM: John Wilson, City Attorney
SUBJECT: License to Graze Cattle on City Property

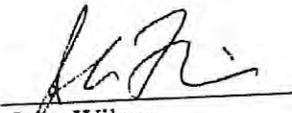
RECOMMENDATION: The City Council adopts Resolution No. 2003-137

JUSTIFICATION: This resolution documents and ratifies an agreement originally entered into by the City in approximately June of 2002.

BACKGROUND A license between these parties for such use was approved by the City Council in approximately June of 2002. The document was not fully executed by the parties within the time allowed. However, Mr. Doolittle took up the use of the land for the purposes set forth in the license and has been present on the land since that time.

FISCAL DATA: City will receive the fees set forth in the license.

RECOMMENDED BY:


John Wilson
City Attorney

APPROVED BY:


Randy Anstine
City Manager

Marie Calderon, City Clerk
City of Banning, California
(City Seal)

APPROVED AS TO FORM:

John Wilson, City Attorney
City of Banning, California

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RESOLUTION NO. 2003-137

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
AUTHORIZING THE EXECUTION OF A LICENSE BETWEEN JEFF DOOLITTLE
AND THE CITY OF BANNING

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BANNING AS
FOLLOWS:

The Mayor is hereby authorized to execute a License Agreement between Jeff Doolittle and the City of Banning in substantially the form attached hereto and by this reference made a part hereof. This authorization shall become null and void and of no effect if the License Agreement is not fully executed by both parties within 30 days of the effective date of this resolution.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2003, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ARTHUR L. WELCH, Mayor
City of Banning, California

Approved as to form and
Legal content

John Wilson, City Attorney

ATTEST:

MARIE CALDERON, City Clerk
City of Banning, California

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LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "License"), made and entered effective this _____ day of June, 2002, by and between the City of Banning, a municipal corporation (the "City") and Jeffrey M. Doolittle ("Doolittle") (sometimes jointly referred to herein as the "Parties").

Recitals:

WHEREAS, the City is the owner and possessor of the real property (the "Grazing Land" identified in Exhibit A, attached hereto and by this reference made a part hereof; and

WHEREAS, Doolittle seeks to utilize the Grazing Land for purposes of the grazing of cattle; and

WHEREAS, the City desires to make the Grazing Land available to Doolittle for his intended purpose; and

WHEREAS, a portion of the Grazing Land was purchased and obtained under dedication to the City for park purposes; and

WHEREAS, that portion of the Grazing Land dedicated to park purposes has not been developed by the City as such and remains in its original condition; and

WHEREAS, the use of the Grazing Land proposed herein will not interfere with the current or proposed use for park purposes.

NOW THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Use

This agreement constitutes a License for Doolittle to graze cattle on land designated for such purposes (the "Grazing Land") in Exhibit A, attached hereto and by this reference made a part hereof.

Consistent with the right of the Parties to terminate this License as otherwise provided herein, Doolittle is hereby granted the exclusive right to graze cattle on the Grazing Land for a period of ten years commencing on the date of this License. The Grazing Land may be utilized for any other use, or for no use, however, the Grazing Land may not be utilized for purposes of grazing cattle except by Mr. Doolittle. Any other provision of this agreement to the contrary notwithstanding, Doolittle is limited to an action for specific performance when enforcing this exclusive grazing right.

2. Term/Termination

The term of this License shall continue until abandonment of the use by the Doolittle or until such time as either party shall terminate the License. The License shall be deemed to be terminated upon 30 days prior written notice by the terminating party to the other of the intent to terminate. The termination shall be effective on the 31st day following such notice of intent.

The License shall otherwise be deemed to be terminated immediately upon failure of Doolittle to pay the license fee in a timely manner as provided herein, or upon the occurrence of any other material breach of this agreement.

Upon the occurrence of a termination of this License, Doolittle shall immediately remove all cattle and any other personal property from the Grazing Land. If all such cattle or personal property have not been removed within 10 calendar days, the City may take any such action as it deems reasonably necessary to have the cattle and personal property removed and shall assess the cost of such action against Doolittle. These time limits may be extended upon the mutual agreement of the parties in writing.

3. Fee

A) Doolittle shall pay the City a fee for the license of one dollar (\$1.00) per year. The fee shall be paid by the close of business on the first day of each July of each year the license remains in effect. Payment shall be made to the Finance Director, or her designee at the offices of the City located at 99 E. Ramsey Street, Banning, CA 92220.

Doolittle shall pay to the City a deposit of five hundred dollars (\$500) to secure his performance under Section 2. The money shall be cash or other form acceptable to the City Manager. Doolittle shall pay the money prior to occupancy of the Grazing Land. The money shall be used by the City to perform any required clean up under Section 2 hereof. Any money remaining after the clean up by the City shall be returned to Doolittle. No interest shall be paid on monies held by the City.

4. Assignment

Doolittle shall not license or underlicense the whole or any part of the Grazing Land, nor sell or assign this License, either voluntarily or through operation of law, nor allow the Grazing Land to be occupied by anyone contrary to the terms of this License.

5. Improvements

In partial consideration for the permission of the City to graze cattle on the Grazing Land, Doolittle agrees to install and maintain, at Doolittle's cost, fencing to contain the cattle. The City shall approve the type and exact location of the fencing.

All fencing shall be immediately removed by Doolittle, or as otherwise set forth for personal property in section 2, immediately upon the termination of this License.

Improvements to the Grazing Land by Doolittle are limited to those specifically described in this License.

6. Surrender of Premises

Doolittle shall occupy the Grazing Land and shall keep the same in clean, neat and orderly condition, and at the termination of this License shall peaceably quit and surrender possession of the Grazing Land to the City.

7. Indemnity

Doolittle agrees to indemnify, defend (upon request by City) and save and hold harmless the City of Banning, its agents, officers and employees, from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury or property damage, including specifically any injury to the cattle of Doolittle, arising from or connected with Doolittle's operations hereunder, or connected with the services performed by or on behalf of Doolittle by any person pursuant to this License or on Grazing Land.

8. Insurance

Without limiting Doolittle's indemnification of City, Doolittle shall provide and maintain at its own expense during the term of this License the following program(s) of insurance covering its actions hereunder. Such insurance shall be provided by insurer(s) satisfactory to City and evidence of such programs satisfactory to City shall be delivered to the City Manager or his/her designee within ten (10) days of the effective date of this License.

A. Minimum Scope of Insurance:

Commercial General Liability and Umbrella Liability Insurance on an occurrence basis, including the tort liability of another assumed in a business contract.

B. Minimum Limits of Insurance:

General Liability/Umbrella Liability with a limit of not less than \$1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the contract project.

C. Deductibles and Self-Insured Retentions:

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or (b) Doolittle shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions:

Additional Insured Status of City. The City, its officers, officials, employees, and volunteers shall be insureds with respect to either liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Doolittle or liability arising out of work or operations performed by or on behalf of the Doolittle, including materials, parts or equipment furnished in connection with such work or operations, excepting professional liability coverage.

Prior Notice of Cancellation. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by Doolittle or Doolittle's insurance; except after thirty (30) days prior written notice to the City.

E. Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of not less than A:VII.

F. Verification of Coverage:

Doolittle shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City occupation of the Grazing Land commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Failure on the part of Doolittle to procure or maintain required insurance shall constitute a material breach of this License upon which City may immediately terminate this License.

9. Compliance with Laws

The parties agree to be bound by applicable federal, state and local laws, regulations and directives as they pertain to this License and/or Doolittle's activities on the Grazing Land.

10. Inspection

Any agent of the City shall have the right to enter on the Grazing Land to insure compliance with this License.

11. Notice

All notices herein required shall be in writing and delivered in person or sent by first class mail, postage prepaid, addressed as follows:

City:

City of Banning
P.O. Box 998
Banning, Ca. 92220
Attn: Paul Toor, Public Works Director

Doolittle:

Jeffrey M. Doolittle
1450 W. Lincoln Street
Banning, Ca. 92220

12. Hazardous Materials

Doolittle hereby acknowledges and agrees that he occupies the Grazing Land in its as is condition. Special note is made of the proximity of the Grazing Land to the sewage treatment works of the City and the probable history of the Grazing Land as a dump site. No due diligence has been performed by either party with respect to the Grazing Land and the City has no information or belief regarding the presence on the Grazing Land of hazardous materials such as to render the Grazing Land unsuitable for Doolittle's intended purpose. Doolittle hereby specifically waives any claim he may have against the City for damages arising from the presence of any hazardous materials on the Grazing Land, and hereby specifically agrees to

indemnify and hold harmless the City, its officers, agents, contractors and employees, under the provisions of section 7 of this License from all claims arising from the potential presence of hazardous materials on the Grazing Land. This specifically includes all claims from purchasers and consumers of the cattle placed on the Grazing Land pursuant to this License.

13. Dispute Resolution

All disputes arising under this License shall be first submitted to the City Manager for resolution. All contested matters shall be submitted to the City Manager in writing. The City Manager shall have 30 calendar days following the submission of such matter in which to render a decision in writing and return it to the parties. The parties shall thereafter have 10 calendar days within which to appeal the decision of the City Manager to an ad hoc committee of the City Council. The decision of the ad hoc committee shall be final.

Upon the reference of any matter arising hereunder to a court of law for resolution, all parties hereby agree that their remedies under law and equity shall be limited to specific performance of the requirements of this License. The parties hereby waive all other rights to relief.

14. Third Party

No person not a party hereto shall enjoy any rights as a result of this License. This License is executed for the benefit of the parties hereto and not in contemplation of any benefit to others.

IN WITNESS WHEREOF, City and Doolittle have executed this License as of the day and year first hereinabove written.

Doolittle:

City:

By: _____
Jeff Doolittle

By: _____
Arthur L. Welch, Mayor

APPROVED AS TO FORM AND
LEGAL CONTENT:

By _____
John F. Wilson, City Attorney

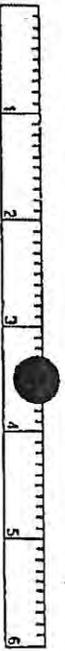
APPROVED AS TO INSURANCE
PROVISIONS:

By _____
F. Ann Yates, R.M. Division

24-21, 24-27
532-19

TCA 5500
100

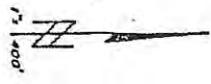
S1/2SEC1/4T3S, R1E



SCALE IN 1/10 OF AN INCH

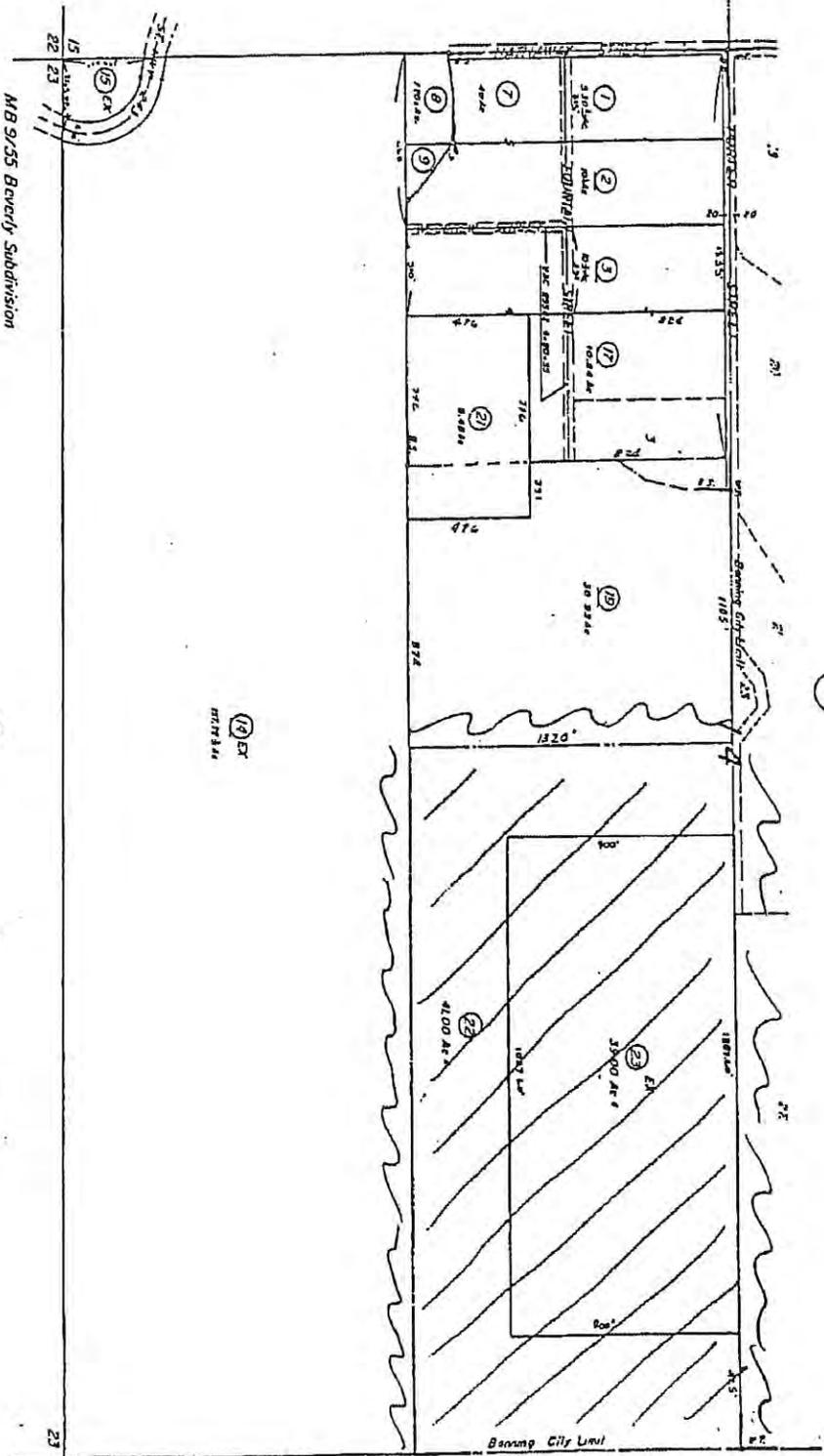
THIS MAP IS FOR
ASSESSMENT PURPOSES ONLY

05



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MB 9/55 Beverly Subdivision
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ASSESSOR'S MAP BK 532 PG 19
RIVERSIDE COUNTY, CALIF.

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proposed area

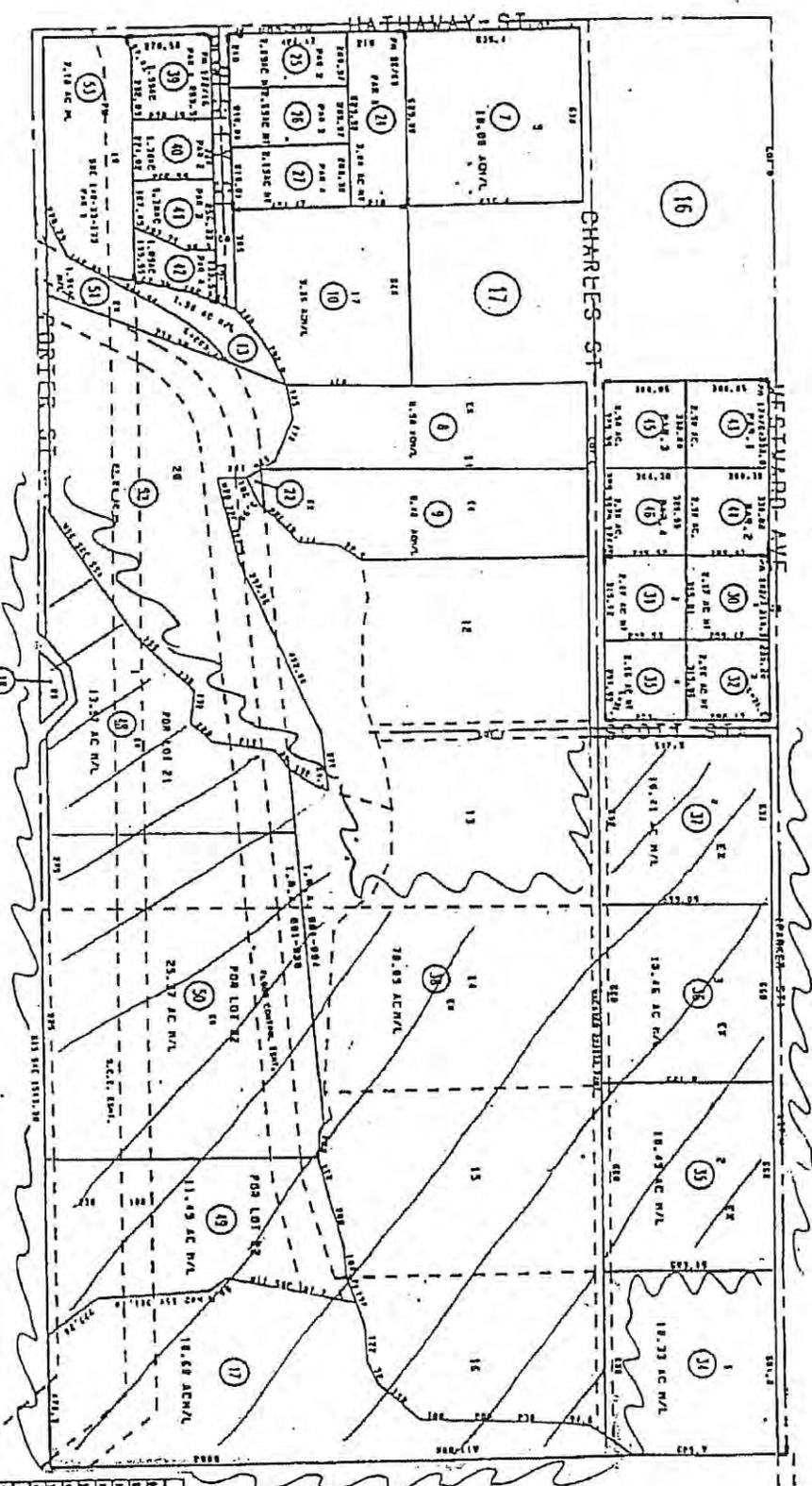
THIS MAP IS PREPARED FOR THE CITY OF BARRING, ILLINOIS, BY THE CITY ENGINEER, AND IS NOT TO BE USED FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN CONSENT OF THE CITY ENGINEER.

POINT 4 T. 35. R. 1E
CITY OF BARRING

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ASSESSOR'S MAP BK. 512 PG. 18
Riverside County, Calif. SX

Proposed Area

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PL 142/77-8 PARCEL MAP 20978
PL 172/16-17 PARCEL MAP 24909
PL 179/64-65 24908

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RESOLUTION NO. 2003-137

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
AUTHORIZING THE EXECUTION OF A LICENSE BETWEEN JEFF DOOLITTLE
AND THE CITY OF BANNING

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BANNING AS
FOLLOWS:

The Mayor is hereby authorized to execute a License Agreement between Jeff Doolittle and the City of Banning in substantially the form attached hereto and by this reference made a part hereof. This authorization shall become null and void and of no effect if the License Agreement is not fully executed by both parties within 30 days of the effective date of this resolution.

PASSED, APPROVED and ADOPTED this 25th day of November, 2003, by the following vote:

AYES: Councilmembers Hanna, Machisic, Palmer, Salas, Mayor Welch
NOES: None
ABSENT: None
ABSTAIN: None



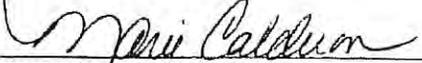
ARTHUR L. WELCH, Mayor
City of Banning, California

Approved as to form and
Legal content



John Wilson, City Attorney

ATTEST:

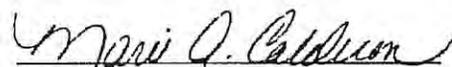


MARIE CALDERON, City Clerk
City of Banning, California

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2003-137 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of November, 2003 by the following vote, to wit:

AYES: Councilmembers Hanna, Machisic, Palmer, Salas, Mayor Welch
NOES: None
ABSTAIN: None
ABSENT: None


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

ATTACHMENT 3

Cease and desist letter, dated July 18, 2017



City of Banning

99 E. Ramsey Street • P.O. Box 998 • Banning, CA 92220-0998 • (951) 922-3125 • Fax (951) 922-3128

COMMUNITY DEVELOPMENT
DEPARTMENT

July 18, 2017

Jeffrey M. Doolittle
1450 West Lincoln Street
Banning, CA 92220

RE: Cease and Desist Cattle Grazing in Violation of License Agreement

Dear Mr. Doolittle:

As you know, you have the right to graze cattle on certain real property owned by the City pursuant to a license agreement dated July 9, 2002 (the "Agreement"). The Agreement provides detailed descriptions of the land on which you are authorized to graze cattle. The City of Banning has observed your cattle grazing on City-owned land not authorized by the Agreement. A picture of parcel that you are grazing cattle outside of the Agreement is attached (the "Unauthorized Parcel").

This letter shall serve as notice to you that you must immediately cease using the Unauthorized Parcel to graze cattle. Should you fail to cease grazing on the Unauthorized Parcel, the City will terminate the license pursuant to paragraph 2 of the Agreement.

Thank you in advance.

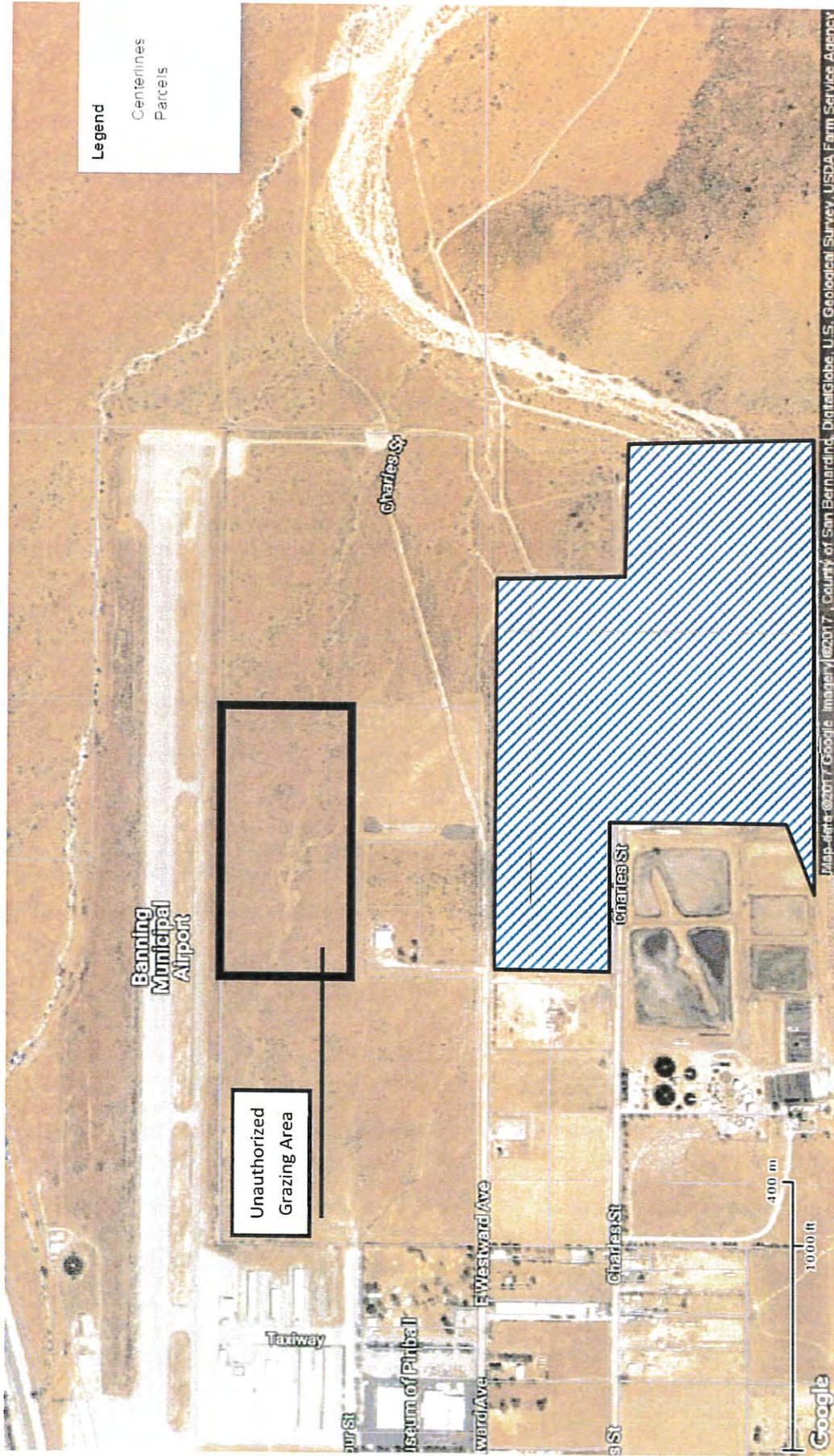
Sincerely,

Ted Shove,
Economic Development Manager

Attachment

Cc: Alex Diaz, Interim City Manager

Doolittle Grazing Proximity Map—South of Westward Avenue
(Map is approximate—see license agreement for more information)





**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Heidi Meraz, Community Services Director

MEETING DATE: April 10, 2018

SUBJECT: Adopt Resolution 2018-42, Accepting California Office of Emergency Services / California Transportation Security Grant Program funds in the amount of \$15,362 for Security Enhancements

RECOMMENDED ACTION:

The City Council adopt Resolution 2018-42, that will apply CTSGP funds for 2016/17 in the amount of \$15,362 toward Security Enhancements that will integrate with the eventual Intelligent Transportation Scheduling (ITS) project and supports the purpose of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 by enhancing safety, security, crime prevention/deterrence and theft and fraud abuse.

BACKGROUND:

The California Governor's Office of Emergency Services ("Cal OES") administers such funds deposited in the Transit System Safety, Security, and Disaster Response Account under the CTSGP. Banning's FY 2016/17 allocation is \$15,362. Staff prepared an accepted Investment Justification for Security Enhancements to that will improve current equipment and/or support larger projects (e.g. Interactive Voice Response or Automated Passenger Alerts). Overall, this will support the comprehensive Intelligent Transportation System (ITS) transit project with multiple phases that will be a perennial line item in the SRTP to ensure adequate upgrades and improvements to the system for long term sustainability and State of Good Repair. Per the Federal Transit Administration's (FTA) recommended (required for FTA recipients) business model, Transit Asset Management System (TAM), this project achieves the nexus of State of Good Repair (SGR) and Safety Management Systems (SMS).

JUSTIFICATION:

This Security Enhancement funding will significantly enhance system security, safety and reliability. Furthermore, it will be maximized due to this being supplemental funding for a system where other components (e.g. GPS) enhance the capacity and performance of certain modules (e.g. IVR). This component would enable vehicle operators and dispatch to send automated communications regarding routine operations, safety concerns (e.g. non-responsive passenger), security threats (e.g. potential active shooter) and requested emergency responses (e.g. witness to a crime or altercation on board vehicle). Meanwhile, the precise project expenditures for this \$15,362 program year are intended to be flexible and open ended to allow the most current circumstances to determine the most prudent use of the funds.

FISCAL IMPACT:

\$15,362 will be applied to the City of Banning to support Security Enhancements.

OPTIONS:

1. Approve as recommended
2. Do not approve and forfeit the \$15,362 in grant funding.

ATTACHMENTS:

1. Resolution No. 2018-42
2. Project Investment Justification

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

Resolution 2018-42

RESOLUTION 2018-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE FOR AND ON BEHALF OF THE CITY OF BANNING ANY ACTION NECESSARY FOR THE PURPOSE OF OBTAINING FINANCIAL ASSISTANCE PROVIDED BY THE CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES UNDER THE CALIFORNIA TRANSIT SECURITY GRANT PROGRAM.

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 authorizes the issuance of general obligation bonds for specified purposes, including, but not limited to, funding made available for capital projects that provide increased protection against security and safety threats, and for capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems; and

WHEREAS, the California Governor's Office of Emergency Services (Cal OES) administers such funds deposited in the Transit System Safety, Security, and Disaster Response Account under the California Transit Security Grant Program (CTSGP); and

WHEREAS, the City of Banning is eligible to receive CTSGP funds; and

WHEREAS, the City Of Banning will apply CTSGP funds in the amounts of \$15,362 FY 2016/17 for Security Enhancements that will improve current equipment and/or support larger projects that supports the purpose of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 by enhancing safety, security, crime prevention/deterrence and theft and fraud abuse;

WHEREAS, this project maximizes the nexus between Transit Asset Management and Safety Management System; and

WHEREAS, the City of Banning recognizes that it is responsible for compliance with all Cal OES CTSGP grant assurances, and state and federal laws, including, but not limited to, laws governing the use of bond funds; and

WHEREAS, Cal OES requires the City of Banning to complete and submit a Governing Body Resolution for the purposes of identifying agent(s) authorized to act on behalf of the City of Banning to execute actions necessary to obtain CTSGP funds from Cal OES and ensure continued compliance with Cal OES CTSGP assurances, and state and federal laws.

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

That the City Manager and/or his *Designee* is hereby authorized to execute for and on behalf of the City of Banning, a public entity established under the laws of

the State of California, any actions necessary for the purpose of obtaining financial assistance provided by the Cal OES under the CTSGP.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning, California

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

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

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-42 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 10th day of April 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 2

Project Investment Justification

Investment Justification Template

A. Investment Heading	
Date Submitted	April 4, 2017
Grant Year Applying For	2016/17
County of Allocation	Riverside
Agency Name	City of Banning
Investment Name	Security Enhancements
Investment Phase	Phase 1
Amount Requesting	\$15,362
FIPS Number	065-3820
Number of Projects	1

B. Contact Information	
Heidi Meraz, Community Services Director 789 N. San Gorgonio Avenue, Banning, CA 92220 Desk 951-922-3241 or Mobile 951-312-7819 Fax 951-849-0639 hmeraz@ci.banning.ca.us	

C. Investment Funding plan			
Investment YEAR	CTAF Request Total		Grand Total
	8879.58(a)(2)	8879.58(a)(3)	
Planning			
Equipment	\$14,416	\$946	\$15,362
Construction			
Total			

***NOTE –Label each project alphabetically and provide the following questions per project.

Agency Name and FIPS City of Banning 065-3820

Letter and Project Title Security Enhancements

D. Provide a brief description for this investment.

This Prop 1B Security Project in the amount of \$15,362 will fund Security Enhancements that will improve the safety and security of the City of Banning Pass Transit System. Staff will use these funds to enhance either the Security Camera System or supplement a pending Intelligent Transportation Scheduling System Project. In the case of the latter, and only if the timing works, this funding would support an Interactive Voice Response System. It warrants noting that this module/feature is part of an overall ITS project that will exceed \$250,000 and be implemented in three phases over approximately 5 – 7 years. Subsequently, it will be appropriately updated, maintained and upgraded. Therefore, the capacity of the IVR module will be maximized and the “value” of the dollar for this Prop 1B project will be much higher than if it was procured as a stand-alone feature.

E. Describe how this investment specifically addresses capital projects or capital expenditures.

Security Enhancements are one of several scalable and integrative components that will ultimately comprise an Intelligent Transportation and Security Camera System that automates a significant amount of activity for Banning Pass Transit. Overall, the Security Camera and ITS projects will provide Computer Assisted Dispatching and Scheduling, sophisticated mapping and GPS, robust reporting, automated fare collection and automated communication and alerts for both staff-to-staff and staff-to-customer concerns. This is a comprehensive capital project with multiple phases that will be a perennial capital line item in the SRTP to ensure adequate upgrades and improvements to the systems for long term sustainability.

F. Describe how the investment will achieve the safety, security, or emergency response benefit.

The Security Enhancements will significantly enhance system security, safety and reliability. Furthermore, they will be maximized due to the planned “phased in approach” of a system where other components (e.g. GPS) enhance the capacity and performance of certain modules (e.g. IVR). These enhancements will either enable vehicle operators and dispatch to send automated communications regarding routine operations, safety concerns (e.g. non-responsive passenger), security threats (e.g. potential active shooter) and requested emergency responses (e.g. witness to a crime or altercation on board vehicle) or improve a State of the Industry Security Camera System. By definition the entire ITS and Security Camera project will require the ability of each component to be integrated with other automated systems. Therefore, these enhancements will support the ability to improve automated communications to police, fire, EMS and other emergency responders. Furthermore, for our more vulnerable populations (e.g. Dialysis Patients) it will eventually allow for automated messaging to appropriate personnel in the event a major weather or earthquake emergency. In other regions of the country where severe storm warnings are a weekly occurrence in the Spring season, IVR and other security enhancements are routinely

used to facilitate the awareness of potential large hail, tornadoes and even road closures (e.g. “John Doe cannot get to Davita Dialysis due to Ramsey being flooded between Sunset and Highland Springs...”)

Agency Name and FIPS City of Banning 065-3820

Letter and Project Title Security Enhancements

G. Describe how this investment specifically meets the useful life for capital assets specified in subdivision (a) of section 16727.

The overall Security Camera and ITS project is a once-twice a career type opportunity for those involved. The system, including the IVR component, will have the required adaptability and capacity to serve Banning Pass Transit for over 15 years for the purpose of subdivision (a) of section 16727, but sustain day-to-day relevance for decades to come. Furthermore, the appropriate maintenance of this system will ensure that the post-FAST goals of State of Good Repair (SGR) and Safety Management Systems (SMS) will be maximized and coordinated to comply with the terms of the business model Transit Asset Management System (TAMS).

H. Provide a high-level timeline, milestones and dates, for the implementation of this investment. Possible areas for inclusion are: stakeholder engagement, planning, major acquisitions/purchases, training, exercises, and process/policy updates. Up to 10 milestones may be provided.

1. ITS Systems overview and research – **Ongoing – late Summer 2018**
2. Development and Finalization of Specifications – **April 2019**
3. Procurement Method Selection – **July 2019**
4. Selection and Notice to Proceed – **September 2019**
5. Security Enhancements Implementation – **January 2020 – March 2020**
6. ITS Phase 2 and 3 (other modules and components) – **SRTP 2021 – 2024 Cycles**

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Laurie Sampson, Executive Assistant

MEETING DATE: April 10, 2018

SUBJECT: Resolution 2018-43, Adopting a Criminal Background and Live Scan Policy for all City Employees

RECOMMENDED ACTION:

That the City Council adopt Resolution No. 2018-43 authorizing the City to access State and Federal level summary criminal history information through the California Department of Justice for employment and volunteer purposes and establishing a City Criminal Background Check and Live Scan Policy for all City employees

BACKGROUND:

The City is permitted to inquire into a job applicant's criminal records by use of criminal history record searches. An applicant's criminal history can be used as a basis for denying employment so long as the conviction is related to the job and future job performance. See *Avant v. South Central Bell Tel. Co.* (5th Cir. 1983) 716 F2d 1083; *Green v. Missouri Pac. R.R. Co.* (8th Cir. 1975) 523 Fed 1290.

In 1987, the City enacted a resolution to authorize access to "state and local summary criminal history information" from the DOJ for employment, licensing, or certification purposes. (City of Banning Resolution No. 1987-62.) Resolution No. 1987-62 did not authorize the City to access for employment purposes federal level summary criminal history information from the Federal Bureau of Investigation (FBI).

In 2012, the City enacted a resolution to authorize the city to access "state and federal level summary criminal history information" for employment (including volunteers and

prospective members of boards, commission and committees) licensing, or certification for purposes. (City of Banning Resolution 2012-67).

JUSTIFICATION:

At the time of the original registration with the Department of Justice it failed to include "all employees" in the City of Banning's access to summary criminal history. In order to expand our use of the Department of Justice to conduct criminal background history to include all employees we must submit a current resolution reaffirming our intent to conduct such background checks.

FISCAL IMPACT:

Funding has been included in the budget for background checks.

OPTIONS:

1. Approve as recommended
2. Do not approve and provide alternative direction

ATTACHMENTS:

1. Resolution 2018-43
2. Resolution 2012-67

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

Resolution 2018-43

RESOLUTION 2018-43

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY TO ACCESS STATE AND FEDERAL LEVEL SUMMARY CRIMINAL HISTORY INFORMATION THROUGH THE CALIFORNIA DEPARTMENT OF JUSTICE AND ESTABLISHING A CRIMINAL BACKGROUND AND LIVESCAN POLICY

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, districts and joint powers authorities to access state and local summary criminal history information for employment, licensing or certification purposes; and

WHEREAS, Penal Code Sections 11105(b)(11) authorizes cities, counties, districts and joint powers authorities to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require the city council, board of supervisors, governing body of a city, county or district or joint powers authority to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

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

SECTION 1. That the City of Banning is hereby authorized to access state and federal level summary criminal history for employment (including volunteers and prospective members of boards, commissions and committees), licensing, or certification for purposes and may no disseminate the information to a private entity.

SECTION 2. That the City Council hereby readopts the attached Policy attached hereto as Exhibit "A", and incorporated herein by this reference, as if fully set forth, entitled "Criminal Background and Live Scan Policy".

SECTION 3. This Resolution supersedes all prior resolutions or other Council actions or policies requiring criminal history checks for City of Banning employees and volunteers.

SECTION 4. This Policy will take effect immediately upon adoption.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

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

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-43, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 1

Resolution 2012-67

RESOLUTION NO. 2012-67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE CITY TO ACCESS STATE AND FEDERAL LEVEL SUMMARY CRIMINAL HISTORY INFORMATION THROUGH THE CALIFORNIA DEPARTMENT OF JUSTICE AND ESTABLISHING A CRIMINAL BACKGROUND AND LIVESCAN POLICY

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, districts and joint powers authorities to access state and local summary criminal history information for employment, licensing or certification purposes; and

WHEREAS, Penal Code Section 11105(b)(11) authorizes cities, counties, districts and joint powers authorities to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require the city council, board of supervisors, governing body of a city, county or district or joint powers authority to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Banning hereby finds, orders and resolves as follows:

SECTION 1. That the City of Banning is hereby authorized to access state and federal level summary criminal history information for employment (including volunteers and prospective members of boards, commissions and committees), licensing, or certification for purposes and may not disseminate the information to a private entity.

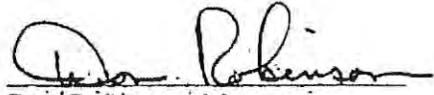
SECTION 2. That the City Council hereby adopts as the attached the Policy attached hereto as Exhibit "A", and incorporated herein by this reference, as if fully set forth, entitled "Criminal Background and Live Scan Policy".

SECTION 3. This Resolution supersedes all prior resolutions or other Council actions or policies requiring criminal history checks for City of Banning employees and volunteers.

SECTION 4. This policy will take effect immediately upon adoption.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 23rd day of October, 2012.



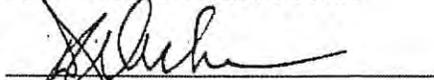
Don Robinson, Mayor
City of Banning, California

ATTEST:

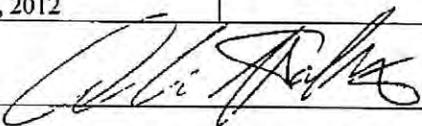


Marie A. Calderon, City Clerk
City of Banning, California

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



David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

City of Banning Hiring Procedures - supplemental		SECTION or Policy No: AP. 10 – Supplemental
		ORIGINATING DEPARTMENT: Administrative Services Department/HR
		Reference: Administrative Policy
SUPERSEDES: none	NEW EFFECTIVE DATE: October 23, 2012	PAGE 1 of 7
APPROVED BY CITY COUNCIL: City Council Resolution 2012-67 		

CRIMINAL BACKGROUND AND LIVE SCAN POLICY

Purpose

To establish a policy to ensure that the City of Banning, its employees and volunteers, and members of the public are protected and to help minimize potential liability, the City Council has authorized a resolution authorizing the City to obtain federal and state summary criminal background information from the Department of Justice for employment purposes. The City desires to identify those employees, prospective employees and volunteers who have a criminal history so that such information may be used in employment decisions. This policy is also designed to ensure that the City complies with DOJ confidentiality regulations pertaining to criminal history information.

POLICY:

1. Authority

Under federal and state law, public agencies may enact policies that disqualify applicants with certain criminal convictions from employment positions if the conviction is relevant to the position in question. Furthermore, California Penal Code Section 11105(b)(11) permits cities to obtain state and federal summary criminal background information from the Department of Justice if the City Council has authorized such access and if the criminal background information is required to implement a statute, ordinance or regulation that contains requirements or exclusions based on specified criminal conduct. The City Council authorized the City to access such information pursuant to Resolution Number 2012-67.

2. General

The City shall not consider for employment a person or volunteer who has been convicted of a felony or a misdemeanor involving a crime listed in Section 4 of this policy. Such conviction shall be cause for termination of any employee or volunteer, if the felony or misdemeanor is for a crime specified below, or, if the crime is not actually listed, the City determines that the crime is substantially similar in nature to those specified below.

City of Banning Hiring Procedures - supplemental		SECTION or Policy No: AP. 10 – Supplemental
		ORIGINATING DEPARTMENT: Administrative Services Department/HR
		Reference: Administrative Policy
SUPERSEDES: none	NEW EFFECTIVE DATE: October 23, 2012	PAGE 2 of 7
APPROVED BY CITY COUNCIL: City Council Resolution 2012-67		

The conviction may be disregarded if it is found and determined by the appointing authority that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of conviction, or the fact that the classification applied for is unrelated to such conviction, and federal or state law does not require such disqualification or termination.

3. Criminal Record Background Checks; Special Procedures for Prospective Members of Boards, Commissions, and Committees

- a) The City shall obtain criminal background information pursuant to the procedures set forth below on all prospective employees and volunteers, all prospective members of boards, commissions and committees, all current employees and volunteers who work with or supervise minors, and all employees formally considered for promotion.
- b) For background checks on prospective members of boards, commissions and committees, the following policies shall apply:
 - New members shall obtain a criminal history check within 30 days of application to the commission, board or committee, or before the Council meeting date which the appointment is made.

The City Manager or his or her designee will notify the members of the results.

4. Specific Convictions and Positions

- a) With respect to all prospective employees, current employees and volunteers, a conviction of any of the following Penal Code sections, shall be grounds for disqualification or termination. In the event that the numbering of the Penal Code sections cited below is changed, this policy shall apply to the successor statute of the Penal Code section cited below.

Section 68: Asking for or receiving bribes
 Section 72: Presentation of fraudulent claims
 Section 73, 74: Bribes for appointment to office
 Section 187, 189: Murder

City of Banning Hiring Procedures - supplemental		SECTION or Policy No: AP. 10.- Supplemental
		ORIGINATING DEPARTMENT: Administrative Services Department/HR
		Reference: Administrative Policy
SUPERSEDES: none	NEW EFFECTIVE DATE: October 23, 2012	PAGE 3 of 7
APPROVED BY CITY COUNCIL: City Council Resolution 2012-67		

Section 209: Kidnapping for ransom, extortion or robbery
 Section 211: Robbery - taking personal property in possession of someone by force or fear
 Section 245: Assault with a deadly weapon
 Section 261: Rape
 Section 451: Burglary
 Section 484: Theft
 Section 490.5: Shoplifting
 Section 503: Embezzlement - fraudulent appropriation of property by a person to whom it has been entrusted
 Section 518: Extortion - obtaining property by a wrongful use of force or fear or under a color of official right

- b) With respect to all applicants for and current employees and volunteers in positions that work with or supervise minors, in addition to above, a conviction of any of the following code sections shall be grounds for disqualification or termination:
- 1) Violations or attempted violations of Penal Code Sections 220, 261.5, 262, 273a, 273d, or 273.5, 288, or any sex offense listed in Section 290.
 - 2) Any crime described in the California Uniform Controlled Substances Act (Division 10 [commencing with Section 11000] of the California Health and Safety Code).
 - 3) Any felony or misdemeanor conviction within 10 years of the City's request for background information for a violation or attempted violation of Chapter 3 of Title 8 of the Penal Code (commencing with Section 207), Sections 211 to 215, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that offense, Section 217.1, Chapter 8 of Title 8 of the Penal Code (commencing with Section 236), Chapter 9 (commencing with Section 240), and for violation of any of the offenses specified in subdivision (0) of Section 667.5.
 - 4) Any felony or misdemeanor conviction under Penal Code Section 311, et seq., photographic use of children relative to sexual conduct.

City of Banning Hiring Procedures - supplemental		SECTION or Policy No: AP. 10 – Supplemental
		ORIGINATING DEPARTMENT: Administrative Services Department/HR
		Reference: Administrative Policy
SUPERSEDES: none	NEW EFFECTIVE DATE: October 23, 2012	PAGE 4 of 7
APPROVED BY CITY COUNCIL: City Council Resolution 2012-67		

- c) With respect to all applicants and current employees and volunteers in positions that work with public funds or public records, in addition to above, a conviction of any of the following Penal Code sections shall be grounds for disqualification or termination:

Section 115, 115.3: Use of a false or forged public record or alteration of a certified copy of a public record

Section 424: Embezzlement and falsification of accounts

Title 13, Chapter 4: Any violation of forgery and counterfeiting

5. Responsibility of Applicant, Employee or Volunteer

It is the responsibility of an applicant, employee, or volunteer to report any conviction or arrest pending final adjudication to the City. The information shall be included on all employment applications. Arrest pending final adjudication means an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial, pursuant to Labor Code 432.7(a). If any convictions or arrests pending final adjudication occur while the employee or volunteer is working for the City, the employee or volunteer shall report that information to his or her supervisor who shall forward the information to the Department Head or designee and the Human Resources Director. Alternatively, the employee or volunteer may report the information directly to the Human Resources Director.

6. Procedure for Criminal Background Records Checks

- a) Criminal record checks conducted pursuant to this policy shall comply with applicable federal and state law and the following:
- (1) The City shall submit a completed Applicant Fingerprint Form to the Department of Justice accompanied by any other forms or information required by the Department of Justice in order to obtain the criminal background information.

City of Banning Hiring Procedures - supplemental		SECTION or Policy No: AP. 10 – Supplemental
		ORIGINATING DEPARTMENT: Administrative Services Department/HR
		Reference: Administrative Policy
SUPERSEDES: none	NEW EFFECTIVE DATE: October 23, 2012	PAGE 5 of 7
APPROVED BY CITY COUNCIL: City Council Resolution 2012-67		

- (2) Any information obtained from the Department of Justice shall be used to determine whether the applicant, employee or volunteer is disqualified or subject to termination pursuant to this policy.
 - (3) The City will not hire a prospective employee until the results of the criminal background information has been received. Any employee will be terminated if the employee is found to have falsified or omitted criminal background information on the employee application
 - (4) Every employee or volunteer who has been hired or promoted subsequent to the adoption of this policy, who passed the initial screening, must sign an acknowledgment that conviction of crimes listed herein or determined to be substantially similar by the City shall be grounds for disciplinary action up to and including termination.
- b) The City shall enter into a contract with the Department of Justice to obtain any subsequent conviction or arrest information concerning an employee or volunteer.
- 1) Any information about an existing employee's or volunteer's conviction(s) shall be reported to the Human Resources Director.
 - 2) Upon receipt of information regarding a conviction and/or arrest pending final adjudication, the Department Head or designee, the Human Resources Director and the City Attorney's office shall evaluate the effect and potential effect of the employees or volunteers record or arrest on his or her position of employment, fellow employees and the public and shall take appropriate action to maximize public safety and minimize potential liability while respecting the rights of the employee or volunteer.
 - 3) If the City finds that an employee or volunteer has failed to report a conviction or arrest pending final adjudication, the appropriate disciplinary action, up to and including termination, will be taken.

7. Confidentiality of Criminal History Information

Criminal history information is confidential and shall not be disclosed, except to those individuals designated to make employment decisions. Persons with access to such

City of Banning Hiring Procedures - supplemental		SECTION or Policy No: AP. 10 – Supplemental
		ORIGINATING DEPARTMENT: Administrative Services Department/HR
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SUPERSEDES: none	NEW EFFECTIVE DATE: October 23, 2012	PAGE 6 of 7
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information shall sign a form acknowledging that the information is confidential and that civil and criminal penalties, as well as dismissal from employment, may result if the confidential information is misused.

Pursuant to Penal Code Section 11077, the Attorney General is responsible for the security of Criminal Offender Record Information (CORI), and has the authority to establish regulations to assure the security of CORI from unauthorized disclosures. The City shall at all times comply with all terms of its Subscriber Agreement with the Department of Justice and DOJ regulations. The following are requirements as prescribed by the State of California, Department of Justice, Bureau of Criminal Identification and Information, Field Operations and Record Security for any agency that maintains or receives criminal history information:

- a) Record Security - Any questions regarding the release, security or privacy of Criminal Offender Record Information (CORI) is to be resolved by the Human Resources Director or his or her designee.
- b) Record Destruction - Upon determination of employment, CORI and copies of the same shall be destroyed to the extent the identity of the person can no longer be reasonably ascertained.
- c) Record Dissemination - CORI shall be used only for the purpose for which was requested by the hiring department
- d) Record Storage - CORI shall be under lock and key and accessible only to the Department Head or his or her designee who shall be committed to protect CORI from unauthorized access, use or disclosure. Fingerprint records, such as fingerprint cards, "no criminal history" notifications and CORI history shall be destroyed by shredding once a hiring decision or volunteer qualification/disqualification determination has been made.
- e) Record Reproduction - CORI may not be reproduced for dissemination. The City may provide a copy of the DOJ applicant response to the subject of the record.
- f) Training - The Department Head and employees with access to CORI are required:
 1. To understand and enforce this policy.

City of Banning Hiring Procedures - supplemental		SECTION or Policy No: AP. 10 – Supplemental
		ORIGINATING DEPARTMENT: Administrative Services Department/HR
		Reference: Administrative Policy
SUPERSEDES: none	NEW EFFECTIVE DATE: October 23, 2012	PAGE 7 of 7
APPROVED BY CITY COUNCIL: City Council Resolution 2012-67		

2. To be fingerprinted and have a criminal history clearance:
3. To have on file a signed copy of the Employee Statement Form for the Use of Criminal Record Information, which acknowledges an understanding of laws prohibiting misuse of CORI.

- g) Penalties - Misuse of CORI is a criminal offense. Violation of this policy regarding CORI may result in suspension, dismissal and/or criminal or civil prosecution and/or administrative action up to and including loss of access to information maintained by the Department of Justice.

8. Consistency With Present Law

Should any change in Federal or State law occur rendering the policies and procedures contained in this policy inconsistent with the new law, the new law shall govern. This shall include, without limitation, any law passed that would prohibit a local agency from inquiring into or considering the criminal history of an applicant or including any inquiry about criminal history on any initial employment application.



**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Heidi Meraz, Community Services Director

MEETING DATE: April 10, 2018

SUBJECT: Adopt Resolution 2018-28, "Authorizing the City Manager to Execute any necessary documents required to obtain funds available from the California Department of Transportation Low Carbon Transit Operations Program (LCTOP) to eliminate the additional zone fare charged to travel to and from Cabazon"

RECOMMENDATION:

The City Council adopt Resolution 2018-28, authorizing the City Manager to execute for and on behalf of the City of Banning any actions necessary for the purpose of obtaining financial assistance for FY2017/18 through the California Department of Transportation Low Carbon Transit Operations Program (LCTOP).

JUSTIFICATION:

This Caltrans LCTOP program provides the City of Banning with an opportunity to eliminate the additional zone charge of \$0.25 required from passengers traveling to and from Cabazon. The LCTOP program is designed to reduce the carbon footprint in an area and target Disadvantaged Communities (DACs). By focusing on Cabazon, this project accomplishes both through reducing vehicle miles travelled and providing service to a DAC.

BACKGROUND:

Staff has submitted a grant application in the amount of \$34,433 for the "Cabazon Fare Upgrade Elimination" project for consideration by Caltrans through LCTOP operating funds. Staff has received the support and signed Sponsor Signature page from RCTC. A Governing Body Resolution approved by the City Council of the City of Banning must be received as a part of the application to complete the funding process.

OPTIONS:

1. Adopt Resolution 2018-28, authorizing the City Manager and/or his designee to execute for and on behalf of the City of Banning any actions necessary for the purpose of obtaining financial assistance for FY 2017/18 through the Caltrans LCTOP program
2. Reject Resolution 2018-28, resulting in a loss of \$35,443 of funding made available by Caltrans through the LCTOP.

ATTACHMENT:

1. Resolution 2018-28
2. RCTC Contributing Sponsor Approval

Approved by:



Rochelle Clayton, Interim City Manager
City Manager

ATTACHMENT 1

Resolution 2018-28

RESOLUTION 2018-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS REQUIRED TO OBTAIN FUNDS FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION LOW CARBON TRANSIT OPERATIONS PROGRAM.

WHEREAS, the City of Banning is an eligible project sponsor and may receive state funding from the Low Carbon Transit Operations (LCTOP) for transit projects; and

WHEREAS, the statutes related to state-funded transit projects require a local or regional implementing agency to abide by various regulations; and

WHEREAS, Senate Bill 862 (2014) named the Department of Transportation as the administrative agency for the LCTOP; and

WHEREAS, the City Of Banning will apply for LCTOP funding in the amount of \$33,443 for the elimination of the \$0.25 fare upgrade to and from Cabazon with a project titled "Cabazon Fare Upgrade Elimination"; and

WHEREAS, the Department of Transportation has developed guidelines for the purpose of administering and distributing LCTOP funds to eligible local agencies; and

WHEREAS, the City of Banning wishes to delegate the authorization to execute these documents and any amendments thereto to the City Manager and/or his designee.

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

SECTION 1: That the City Manager and/or his/her designee agrees to comply with all conditions and requirements set forth in the Certification and Assurances and the Authorized Agent documents and applicable statutes, regulations and guidelines for all LCTOP funded transit projects.

SECTION 2: That the City Manager and/or his/her designee be authorized to execute all required documents of the LCTOP program and any Amendments thereto with the California Department of Transportation.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning, California

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

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

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-28 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 2

RCTC Contributing Sponsor Approval



Allocation

Lead Agency: City of Banning
Project Title: Cabazon Fare Upgrade Elimination
Regional Entity: Riverside County Transportation Commission
County: Riverside

Lead Agency: I certify the scope, cost, schedule, and benefits as identified in the attached Allocation Request (Request) and attachments are true and accurate and demonstrate a fully funded operable project. I understand the Request is subject to any additional restrictions, limitations or conditions that may be enacted by the State Legislature, including the State's budgetary process and/or auction receipts. In the event the project cannot be completed as originally scoped, scheduled and estimated, or the project is terminated prior to completion, Lead Agency shall, at its own expense, ensure that the project is in a safe and operable condition for the public. I understand this project will be monitored by the California Department of Transportation - Division of Rail and Mass Transportation.

Authorized Agent: Heidi Meraz
Title: Community Services Director
Lead Agency: City of Banning

Signature: *Heidi Meraz*
PUC Funds Type: 99313 \$ 0
PUC Funds Type: 99314 \$ 2,147

Contributing Sponsor(s): The contributing sponsor is an entity that passes funds to the Lead Agency to support a project. The contributing sponsor could be the regional entity (PUC 99313) passing their funds to a recipient agency within their region or a recipient agency (PUC 99314) passing their funds through to either a regional entity or a recipient agency within their region. The contributing sponsor(s) must also sign and state the amount and type of LCTOP funds (PUC Sections 99313 and 99314) they are contributing the project. Sign below or attach a separate officially signed letter providing that information. If there is more than one contributing sponsor, please submit additional page, or a letter from the additional Contributing Sponsors.

Authorized Agent: Josefina Clemente
Title: Program Manager, Transit Department
Lead Agency: Riverside County Transportation Commission

Signature: *Josefina Clemente*
PUC Funds Type: 99313 \$ 33,296
PUC Funds Type: 99314 \$ 0

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Jennifer McCoy, Purchasing Manager

MEETING DATE: April 10, 2018

SUBJECT: Purchasing Division's Performance Utilizing the Current e-Procurement System, with Planet Bids, Compared to the previous Manual Process.

RECOMMENDATION:

Information only; receive and file Purchasing performance reports.

BACKGROUND:

At the March 27, 2018 City Council Meeting, staff was requested to bring forward information regarding the Purchasing Division's Performance Measures of the bid processes comparing the previously used manual processes and current e-Procurement Planet Bids System.

ANALYSIS:

The Purchasing Department implemented the Planet Bids e-Procurement system in March of 2017, with the first bid being posted on the site April 26, 2017. Prior to implementation, all tracking and processing of data pertaining to vendors, insurance, bidding and contracts were handled manually. Since the implementation of the online bid process there has been a significant increase in vendor outreach, amount of bids processed and data transparency. The total amount of bids received over the 2-year data comparison revealed an increase of thirty-three percent (33%), with an average per bid submittal decrease of ten percent (10%). This amounts to a decrease of, (0.31) per bid. Within this 2-year comparison, there has been a forty-nine percent (49%) increase in the amount of bids processed, while the outreach and prospective bidders seeking business has increased to one hundred ninety-seven percent (197%) over the manual process. (Attachment 1 contains the bid statistics for further review.)

At the beginning of this year, the Purchasing Department sent out an External Performance Survey to our registered vendors with the intention of obtaining feedback on the overall efficiency of the division, customer service levels, City's website and Planet Bids navigation ratings and to determine what training our vendors would be interested in attending. Attachment 2 contains the results to date of this survey. Sixty-Eight percent (68%) of the external users rate the process and use of Planet Bids between Good and Excellent. The survey provided positive and negative feedback in multiple areas that have been either addressed through system/process adjustments or will be in the near future by offering the requested training to our external users. Training's will include Planet Bids system review, Insurance requirements and Bid/Contract process classes.

Finally, in Attachment 3 and 4, you will find samples of two (2) Planet Bid Award Summaries, (IFB #18-003 - Dump Truck Purchase and IFB #17-101 – Lions Park Ballfield Fencing). The samples provided are submitted to the requesting department along with the proposals and evaluations once bidding is complete. The document contains the bid details, line item rate request, vendor notifications, prospective bidders, Q&A, addenda, bid results, project evaluations and correspondence records. This document allows complete transparency of each bid and is recommended to be posted with City Council award recommendations.

The implementation of the eProcurement system has streamlined the bid processes for internal and external users. It has proven to provide a higher level of compliance, transparency and more efficient record keeping of our Contracts, Insurance and Vendor data.

ATTACHMENTS:

1. Purchasing Statistics Report
2. External Vendor Survey
3. Planet Bid Award Summary Sample #1
4. Planet Bid Award Summary Sample #2

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

Purchasing Statistics Reports

**PURCHASING STATISTICS REPORT
AS OF MARCH 28, 2018**

	ELECTRONIC PROCESS (PLANET BIDS)	MANUAL PROCESS	Difference	% Totals
	March 2018 - May 2017	May 2017 - April 2016		
Bids Processed	61	41	20	49%
Newspaper Advertisement	27	30	(3)	-10%
Number of Awards Total	41	53	(12)	-23%
Banning Registered Vendors Notified Total	1119	457	662	145%
Bid Broadcast to PB Vendors	22063	0	22063	100%
Total Bidders Notified	23182	457	22725	4973%
Prospective Bidder Total	866	196	670	342%
Total Bids Received	162	121.58	40.42	33%
Average of Total Bidders Notified per Bid	380.03	11.15	368.89	3309%
Average of Total Prospective Bidders per Bid	14.20	4.78	9.42	197%
Average Number of Awards Total	0.67	1.12	(0.45)	-40%
Average Total Bids Received	2.66	2.97	(0.31)	-10%

ATTACHMENT 2

External Vendor Survey

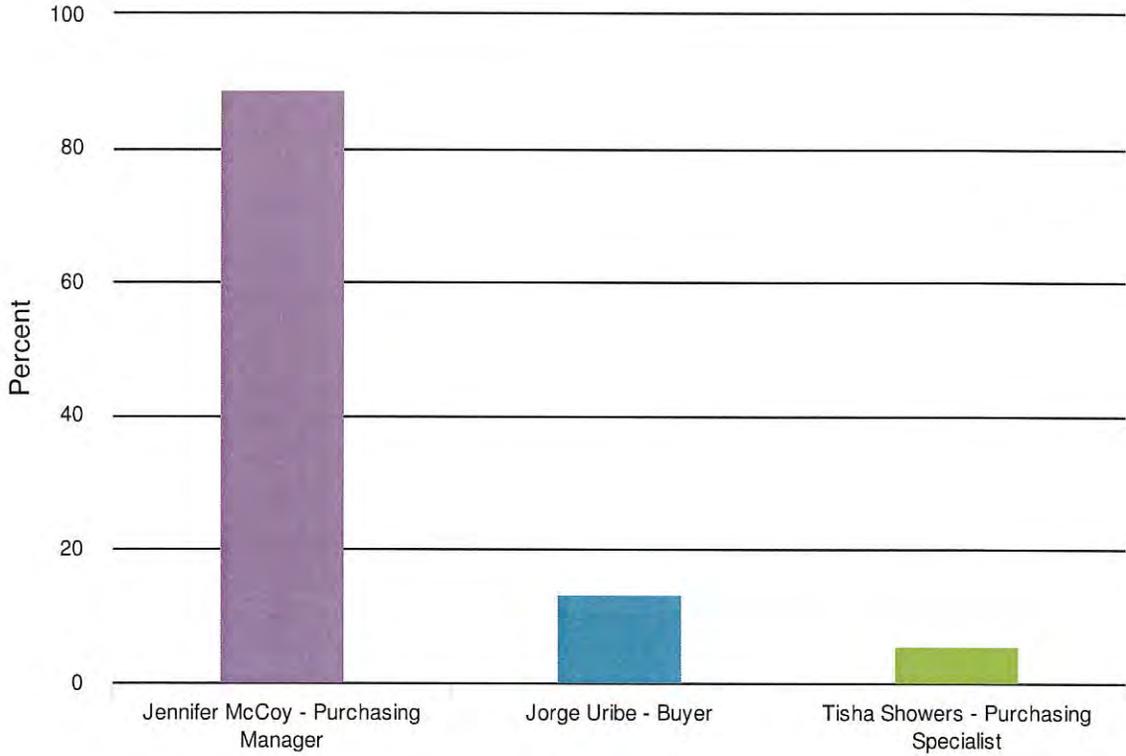
Report for City of Banning Procurement Performance Survey

Response Counts

Completion Rate:	100%		
	Complete		53

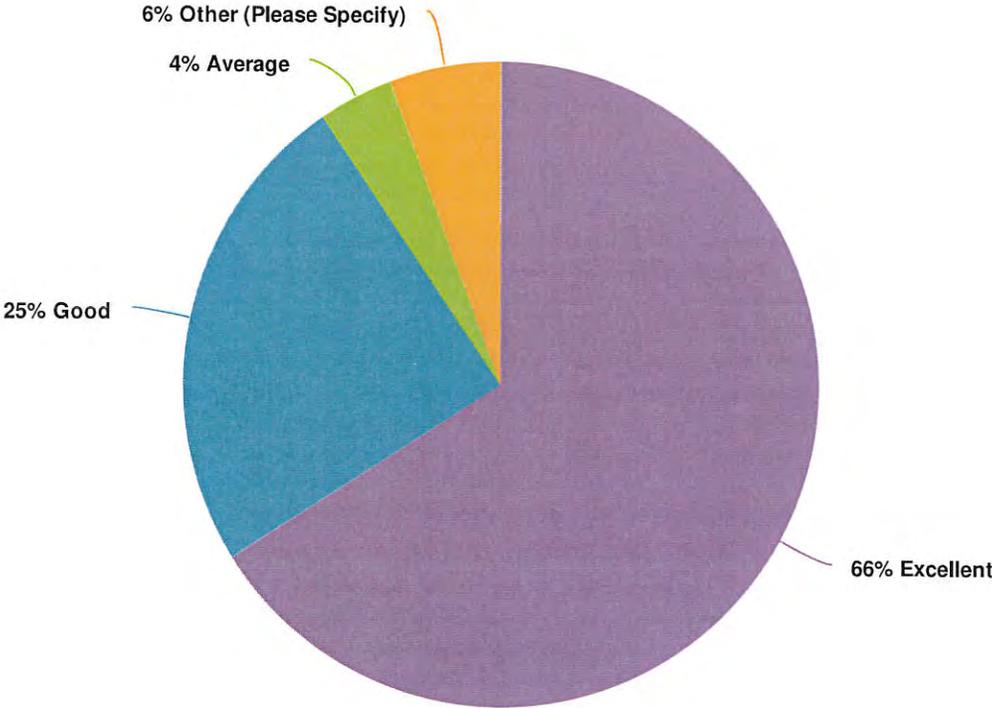
Totals: 53

1. Please select the name of the City of Banning Purchasing Staff you had communication with.



Value		Percent	Responses
Jennifer McCoy - Purchasing Manager		88.7%	47
Jorge Uribe - Buyer		13.2%	7
Tisha Showers - Purchasing Specialist		5.7%	3

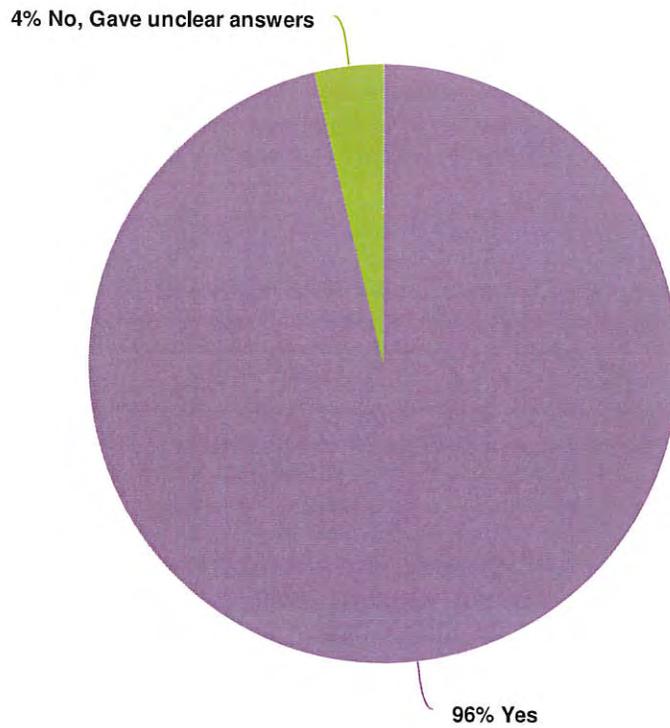
2. Please rate the City of Banning Purchasing Staff's overall efficiency with your inquiries.



Value		Percent	Responses
Excellent		66.0%	35
Good		24.5%	13
Average		3.8%	2
Other (Please Specify)		5.7%	3

Totals: 53

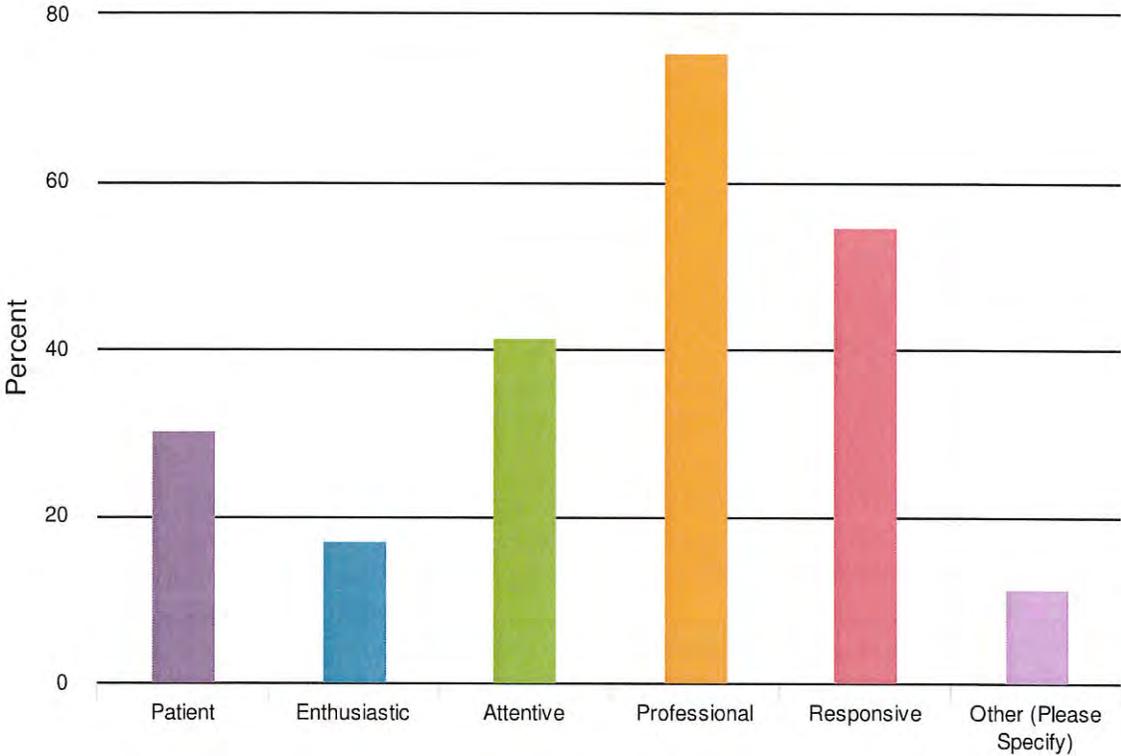
3. The purchasing representative was knowledgeable.



Value		Percent	Responses
Yes		96.2%	51
No, Gave unclear answers		3.8%	2

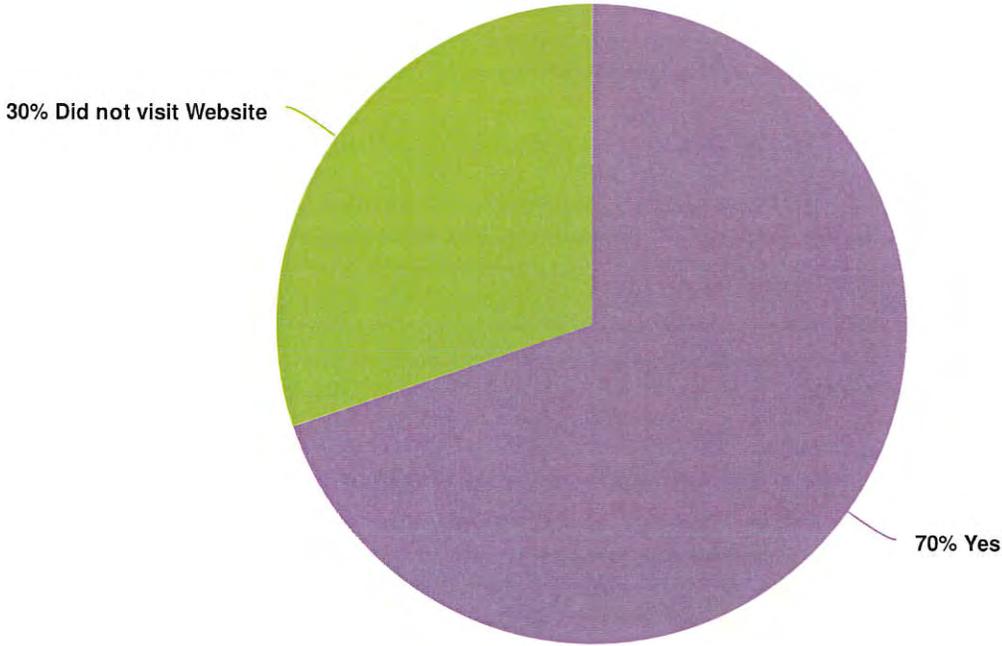
Totals: 53

4. Which of the following qualities of the service representative stood out (as being superior)?



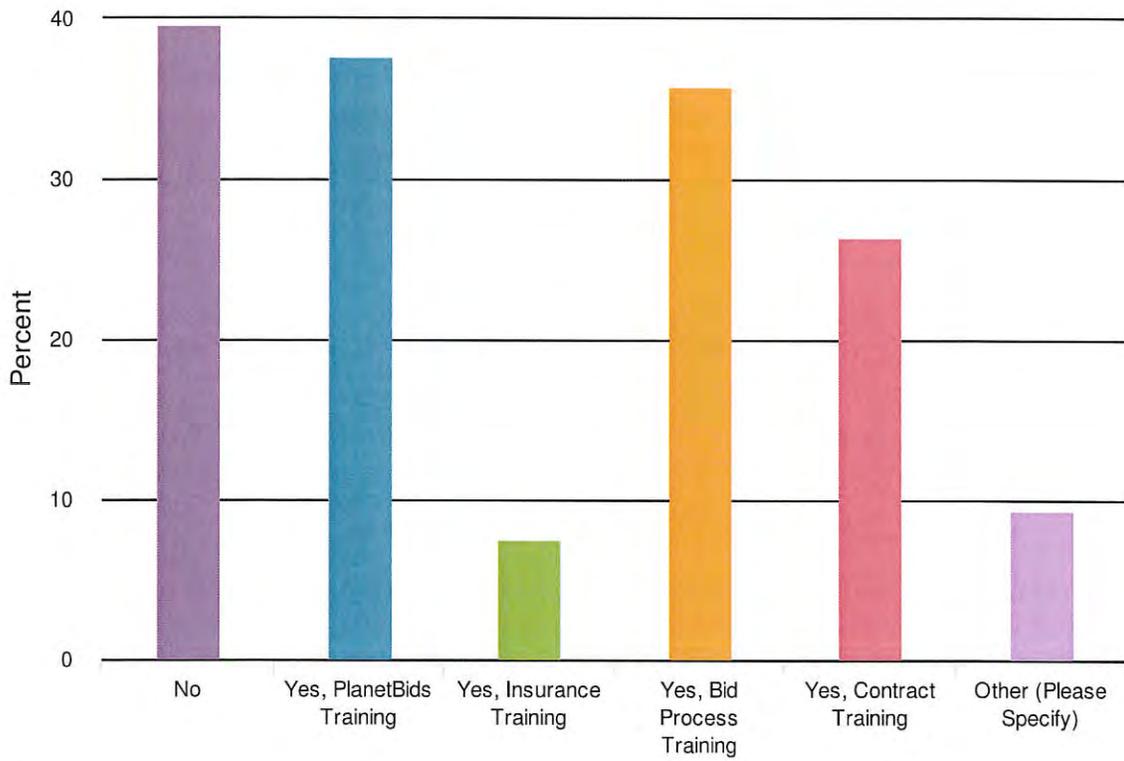
Value		Percent	Responses
Patient		30.2%	16
Enthusiastic		17.0%	9
Attentive		41.5%	22
Professional		75.5%	40
Responsive		54.7%	29
Other (Please Specify)		11.3%	6

5. The City of Banning’s website was easy to navigate and provided helpful information.



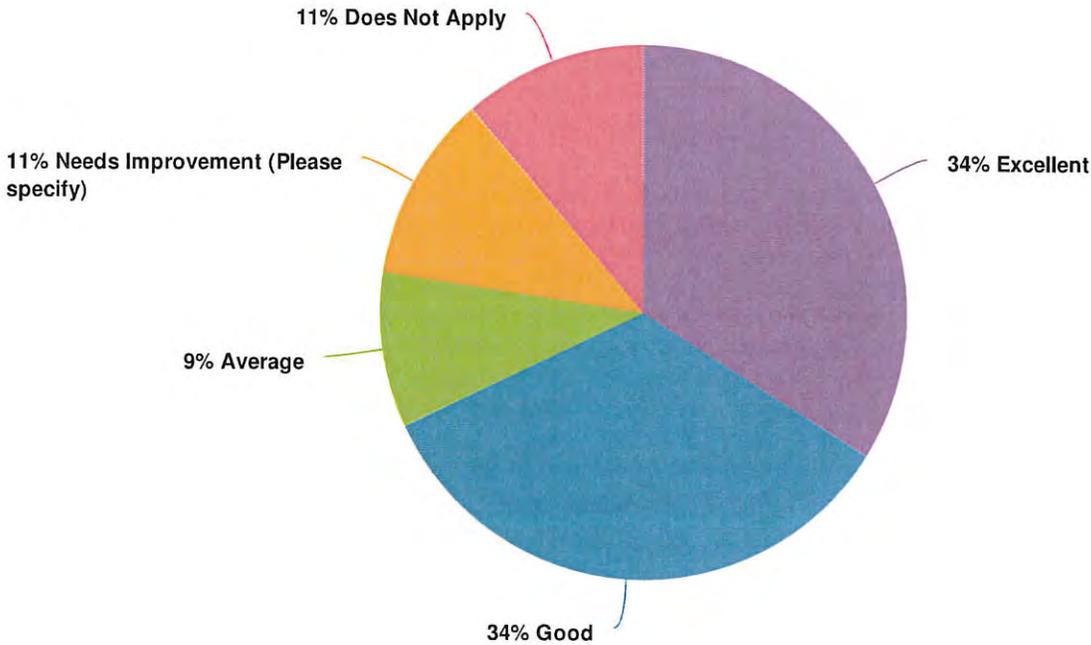
Value		Percent	Responses
Yes		69.8%	37
Did not visit Website		30.2%	16
			Totals: 53

6. If the City provided training would you attend?



Value	Percent	Responses
No	39.6%	21
Yes, PlanetBids Training	37.7%	20
Yes, Insurance Training	7.5%	4
Yes, Bid Process Training	35.8%	19
Yes, Contract Training	26.4%	14
Other (Please Specify)	9.4%	5

7. Overall how would you rate the process of PlanetBids (registration, bidding, uploading of documents)?



Value		Percent	Responses
Excellent		34.0%	18
Good		34.0%	18
Average		9.4%	5
Needs Improvement (Please specify)		11.3%	6
Does Not Apply		11.3%	6

Totals: 53

ATTACHMENT 3

PlanetBid Award Summary Sample #1

Bid Detail**Bid Information**

Project Title	Dump Truck Purchase
Invitation No.	18-003
Bid Posting Date	January 19, 2018 7:09 AM (Pacific)
Project Stage	Awarded
Bid Due Date	February 16, 2018 10:00 AM (Pacific)
Response Format	Electronic only
Link to Project on Public Site	https://www.planetbids.com/portal/portal.cfm?CompanyID=33077&BidID=45008
Reference ID	C00391
Project Type	Bid
Response Types	Line Item, Response File
Type of Award	Lump Sum
Categories	065030 - AUTO BODIES & ACCESSORIES: DUMP BODIES, SUBFRAMES 070045 - MAJOR TRANSPORTATION: TRUCKS 070051 - MAJOR TRANSPORTATION: TRUCKS, OVER ONE TON 070053 - MAJOR TRANSPORTATION: TRUCKS W/SPECIALIZED BODY 070054 - MAJOR TRANSPORTATION: TRUCKS, DIESEL 070061 - MAJOR TRANSPORTATION: TRAILERS, DUMP, HYDRAULIC
License Requirements	N/A
Department	Public Works Department
Address	99 E. Ramsey St., Banning, CA
County	Riverside
Bid Valid	90 Days
Liquidated Damages	
Target Bid Amount	\$125,000.00
Estimated Bid Value	\$125,000.00
Start/Delivery Date	Based Upon PO/Contract Approval
Project Duration	Upon Delivery
Prevailing Wage	No
Cooperative Bid	No
Piggy-backable	No
eBid Notes	Electronic Bids shall be submitted via the City's secure online bidding system. All required sections of the Bid must be submitted via the website. Bidder is solely responsible for "on time" submission of their electronic bid. Bid attachment documents shall be signed in ink and included with the electronic bid submission as a general attachment.
Preferences	Local - Local Business
Restriction Type	None
Restricted To	

Pre-Bid Meeting Information

Pre-Bid Meeting No

Online Q&A

Online Q&A Yes
Q&A Cutoff Date February 5, 2018 3:00 PM (Pacific)

Contact Information

Contact Info Jennifer McCoy - 951-922-3121
jmccoy@ci.banning.ca.us
Bids to
Owner's Agent

Description

Scope of Services The City of Banning Public Works Department is soliciting bids for the purchase of one (1) Dump Truck.

Bid Detail

- Other Details** Attachments:
1. Notice to Bidders
 2. Bid Specifications (Proposal must be submitted online with your eBid)
 3. Price Proposal (Online Rate Sheet completed with eBid)

Notes E-Bids are sealed and cannot be viewed by the City until the closing date and time. If you need to withdraw your bid, you may do so any time before the bid deadline, by going back into the system and selecting "Withdraw".

Local Programs & Policies

Special Notices

Downloadable Files

File Title	File Name	File Size	On Server	Uploaded Date	Visible
IFB 18-003 Notice to Bidders	IFB 18-003 Legal Notice.pdf	119.0 kb	On Server	01/05/2018	Yes
IFB 18-003 Bid Specifications	IFB 18-003 Dump Truck Bid Specifications.pdf	327.4 kb	On Server	01/05/2018	No
IFB No 18-003 Addendum No 1	IFB No 18-003 Addendum No 1.pdf	23.7 kb	On Server	01/31/2018	No

Download File Fee \$0.00

Hard Copy Plans

Title/Description	Receive From	Plan Fee	Mailing Fee	Refund
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Line Items

Type	Item Code	UOM	Qty	Ref	MFR	Model#	Brand Req	Brand	Delivery Loc
	Total Bid Amount								
1	Dump Truck	Each	1						

Dump Truck Purchase (18-003), bidding on February 16, 2018 10:00 AM (Pacific)

Printed 03/13/2018

Vendor Notifications

223 external vendors notified through BidBroadcast

11 City of Banning vendors notified

Notified Vendors on January 19, 2018

Using Criteria Category:

065030 - AUTO BODIES & ACCESSORIES: DUMP BODIES, SUBFRAMES
 070045 - MAJOR TRANSPORTATION: TRUCKS
 070051 - MAJOR TRANSPORTATION: TRUCKS, OVER ONE TON
 070053 - MAJOR TRANSPORTATION: TRUCKS W/SPECIALIZED BODY
 070054 - MAJOR TRANSPORTATION: TRUCKS, DIESEL
 070061 - MAJOR TRANSPORTATION: TRAILERS, DUMP, HYDRAULIC

Altec Industries, Inc. (538212)
 325 Industrial Way
 Dixon, CA 95620
 United States

Contact: Riley Browne
Phone: 205-408-2341
Fax:
Email: riley.browne@altec.com

CONSTRUCTION BIDBOARD (567454)
 11622 EL CAMINO REAL
 SUITE 100
 SAN DIEGO, CA 92130
 United States

Contact: N RIVERS
Phone: 800-479-5314
Fax: 619-688-0585
Email:
 PLANROOM@EBIDBOARD.COM

Diamond Hills Chevrolet Buick (532524)
 4545 W. Ramsey St.
 Banning, CA 92220
 United States

Contact: Frank Goodale
Phone: 951-743-6108
Fax:
Email: fgoodale@verizon.net

Los Angeles Truck Centers, LLC
 (545559)
 13800 Valley Blvd
 Fontana, CA 92335
 United States

Contact: Louie Garcia
Phone: 909-510-4266
Fax:
Email: lgarcia@vvgtruck.com

Utility Crane and Equipment (528718)
 575 W. Valley Blvd
 Rialto, CA 92376
 United States

Contact: Jerry Magee
Phone: 916-202-5107
Fax:
Email: jerrym@utilityce.com

West Coast Sand & Gravel (580029)
 PO Box 5067
 Buena Park Ca, CA 90622
 United States

Contact: Joe Orozco
Phone: 866-923-4772
Fax: 760-399-5939
Email: jorozco@wscsg.com

Western Truck Exchange (530568)
 159 E. Manchester Ave
 Los Angeles, CA 90003
 United States

Contact: Dan Holtzman DGS
Phone: 323-750-1277
Fax: 323-789-9929
Email: dan@westtruck.com

Notified Vendors on January 31, 2018

Using Criteria Category:

065030 - AUTO BODIES & ACCESSORIES: DUMP BODIES, SUBFRAMES
 070045 - MAJOR TRANSPORTATION: TRUCKS
 070051 - MAJOR TRANSPORTATION: TRUCKS, OVER ONE TON
 070053 - MAJOR TRANSPORTATION: TRUCKS W/SPECIALIZED BODY
 070054 - MAJOR TRANSPORTATION: TRUCKS, DIESEL
 070061 - MAJOR TRANSPORTATION: TRAILERS, DUMP, HYDRAULIC

Fairview Ford (592295)
 292 N. G St.
 San Bernardino, CA 92410
 United States

Contact: Todd Eff
Phone: 909-386-0281
Fax: 909-386-0292
Email: teff@fairviewford.com

Phoneix Cars LLC (592349)
 401 S.Doubleday Ave.
 Ontario, CA 91761
 United States

Contact: Thomas Allen
Phone: 909-987-0815 ext. 151
Fax: 909-987-2020
Email:
 thomasa@phoenixmotorcars.com

Theodore Robins Ford (592235)
 2060 Harbor Blvd.
 Costa Mesa, CA 92628
 United States

Contact: Ozzy Mendoza
Phone: 949-642-0010 ext. 353
Fax: 949-515-1325
Email: robinsfordgov@gmail.com

Notified Vendors on January 31, 2018

Using Criteria Category:

PlanetBids, Inc.

Vendor Notifications

Using Criteria Category:

- 065030 - AUTO BODIES & ACCESSORIES: DUMP BODIES, SUBFRAMES
- 070045 - MAJOR TRANSPORTATION: TRUCKS
- 070051 - MAJOR TRANSPORTATION: TRUCKS, OVER ONE TON
- 070053 - MAJOR TRANSPORTATION: TRUCKS W/SPECIALIZED BODY
- 070054 - MAJOR TRANSPORTATION: TRUCKS, DIESEL
- 070061 - MAJOR TRANSPORTATION: TRAILERS, DUMP, HYDRAULIC

Notified Vendors on February 6, 2018

Using Criteria Category:

- 065030 - AUTO BODIES & ACCESSORIES: DUMP BODIES, SUBFRAMES
- 070045 - MAJOR TRANSPORTATION: TRUCKS
- 070051 - MAJOR TRANSPORTATION: TRUCKS, OVER ONE TON
- 070053 - MAJOR TRANSPORTATION: TRUCKS W/SPECIALIZED BODY
- 070054 - MAJOR TRANSPORTATION: TRUCKS, DIESEL
- 070061 - MAJOR TRANSPORTATION: TRAILERS, DUMP, HYDRAULIC

Commercial truck Equipment Co
 (597280)
 12351 Bellflower Blvd
 Downey, CA 90242
 United States

Contact: Rick Anderson
Phone: 652-803-4466
Fax:
Email: ctectrick@ctectruck.com

Notified Vendors on February 9, 2018

Using Criteria Category:

- 065030 - AUTO BODIES & ACCESSORIES: DUMP BODIES, SUBFRAMES
- 070045 - MAJOR TRANSPORTATION: TRUCKS
- 070051 - MAJOR TRANSPORTATION: TRUCKS, OVER ONE TON
- 070053 - MAJOR TRANSPORTATION: TRUCKS W/SPECIALIZED BODY
- 070054 - MAJOR TRANSPORTATION: TRUCKS, DIESEL
- 070061 - MAJOR TRANSPORTATION: TRAILERS, DUMP, HYDRAULIC

Prospective Bidders

22 Prospective Bidders

Vendor	Contact	Vendor Type	Pre-Bid	Status
Utility Crane and Equipment 10160 Redwood Ave. Fontana, CA 92335 United States	Contact: Jerry Magee Phone: 916-202-5107 Fax: Email: jerrym@utilityce.com			Bidder
Wattco 2230 Cordelia Road Fairfield, CA 94534 United States	Contact: LT Phone: 213-500-1916 Fax: Email: ltucker@wattco.net			Bidder
American Truck & Trailer Body Co., Inc. 100 W. Valpico Rd Bldg D Tracy, CA 95376 United States	Contact: Robert Davis Phone: 714-580-9845 Fax: 209-836-1871 Email: robert@attbcinc.com	MBE		Bidder
SOUTH BAY FORD LINCOLN 5100 W. ROSECRANS AVE. HAWTHORNE, CA 90250 United States	Contact: TRUMAN WILLIAMS Phone: 310-706-6082 Fax: 310-706-6083 Email: TRUMANWILLIAMS@sbfim.com			Bidder
Westrux International 2200 E Steel Rd Colton, CA 92324 United States	Contact: Mike Herman Phone: 760-552-3188 Fax: 909-825-0327 Email: mherman@westrux.com			Bidder
warren anderson ford 7990 auto dr riverside, CA 92504 United States	Contact: Vikiy Garay Phone: 951-353-8800 ext. 504 Fax: 951-354-8462 Email: vgaray@frittsford.com			Bidder
Universal Truck Body, Inc 14978 Ceres Ave Fontana, CA 92335 United States	Contact: Dave Wilcox Phone: 909-356-4075 Fax: 909-356-8540 Email: utbwilcox@gmail.com			Bidder
North American Procurement Council PO Box 40445 Grand Junction, CO 81504 United States	Contact: Lyra De Asis Phone: 302-450-1923 Fax: Email: lyra@napc.me			Bidder
York Enterprises South 18255 Beach Blvd Huntington Beach, CA 92648 United States	Contact: John Morgan Phone: 714-842-6611 ext. 524 Fax: 714-847-6791 Email: hbfordsales@aol.com			Bidder
Fairview Ford 292 N. G St. San Bernardino, CA 92410 United States	Contact: Todd Eff Phone: 909-386-0281 Fax: 909-386-0292 Email: teff@fairviewford.com			Bidder
Los Angeles Truck Centers LLC 13800 Valley Blvd. Fontana, CA 92335 United States	Contact: Chris Burlew Phone: 909-510-5061 Fax: Email: cburlew@lafreightliner.com			Bidder
Western Truck Exchange 159 E. Manchester Ave Los Angeles, CA 90003 United States	Contact: Dan Holtzman Phone: 323-750-1277 Fax: 323-789-9929 Email: dan@westtruck.com	DGS		Bidder
Onvia, Inc. 509 Olive Way Seattle, WA 98101 United States	Contact: Source Management Phone: 206-373-9500 Fax: Email: sourcemanagement2@onvia.com			Bidder
Raceway Ford Inc. 5900 Sycamore Canyon Blvd. Riverside, CA 92507 United States	Contact: Mike Ladner Phone: 909-784-1000 Fax: Email: mladner@earthlink.net	CABE		Bidder
fairway ford 1350 yorba linda blvd placentia, CA 92870 United States	Contact: manny hernandez Phone: 714-579-3828 Fax: 714-579-3864 Email: fairwayfleet@gmail.com			Bidder
Los Angeles Truck Centers, LLC 2429 S. Peck Road Whittier, CA 90601 United States	Contact: James K. Blakely Phone: 714-357-0024 Fax: Email: jblakely@lafreightliner.com			Bidder

Dump Truck Purchase (18-003), bidding on February 16, 2018 10:00 AM (Pacific)

Printed 03/13/2018

Prospective Bidders**Greenkraft Inc**

2530 South Birch Street
 Santa Ana, CA 92707
 United States

Contact: Sosi Bardakjian
Phone: 714-545-7777 ext. 222
Fax:
Email: sosi@greenkraftinc.com

Bidder

PRECISION AERIAL SERVICES

1150 N. HELLMAN AVE.
 ONTARIO, CA 91764
 United States

Contact: BILL PAYNE JR
Phone: 909-484-8259
Fax: 909-484-8289
Email: BILL@PRECISIONAERIALSERVICES.COM

Bidder

PV Inc

4622 Cedar Avenue
 Wilmington, NC 28403
 United States

Contact: Bid Clerk
Phone: 800-746-9554
Fax: 800-746-8307
Email: shanti@gmail.com

Bidder

Almared Inc.

2320 Stanislaus Street
 Fresno, CA 93721
 United States

Contact: Josh Arreola
Phone: 559-485-4427 ext. 125
Fax:
Email: jarreola@a1altfuels.com

Bidder

TUTTLE-CLICK FORD LINCOLN

43 AUTO CERENTER DR
 IRVINE, CA 92618
 United States

Contact: SHERI SCHOONOVER
Phone: 949-472-5216
Fax: 949-472-5315
Email: sschoonover@tuttleclick.com

Bidder

Truck Equipment Associates

16787 Beach Blvd Suite 206
 Huntington Beach, CA 92647
 United States

Contact: Tom Watkinson
Phone: 562-240-5456
Fax:
Email: watkinsont@sbcglobal.net

Bidder

Q & A

Vendor	Submit Date	Question	Answer	Release Date	Set
Los Angeles Truck Centers, LLC	02/01/2018 10:15 AM (Pacific)	Hoist data			not released
	02/06/2018 7:29 AM (Pacific)	Instructions say you want a sealed but the the next instruction says they must be submitted electronically. PlanetBid electronically OK ?	The electronic online system used to submit your bid, (PlanetBids) is considered sealed. This is due to the system security that the bids can't be viewed by anyone until after the closing date and time. Bids aren't excepted by email or any other way, I hope this information clears up any of your concerns.	02/06/2018 7:29 AM (Pacific)	1.1
Los Angeles Truck Centers, LLC	01/31/2018 2:52 PM (Pacific)	Is the cities fleet small enough to still purchase a diesel powered unit under AQMD rule 1196? 10 speed transmission being requested is an automated not automatic is this correct? EATON FAOM-15810C-EA FULLER ADVANTAGE SERIES AUTOMATED MANUAL TRANSMISSION Air ride isnt typical on a dump truck application is this correct? with a 23,000# rear axle a 23,000# air ride will be mandated by factory 16.5x5 front brakes are largest available in drum or you can go disc how many fire extinguishers and triangle kits are desired its duplicated on the bid spec sec 15 & 17. 1.5 lightbar, where does the city want this mounted? if on the cab no rear visibility is achieved and block by cab shield. If on the cab shield subject to damages being loaded. suggest omitting it. and going with just item (f) and increasing the rear to 4 and adding two to the sides of the front fenders. where is the arrow stick to be mounted? Factory supplies 4 keys standard is this acceptable?	1.) Is the cities fleet small enough to still purchase a diesel powered unit under AQMD rule 1196? Yes, since we are replacing one for one. 2.) 10 speed transmission being requested is an automated not automatic is this correct? Allison 3000 Series or equal 3.) with a 23,000# rear axle a 23,000# air ride will be mandated by factory. Ok 4.) 16.5x5 front brakes are largest available in drum or you can go disc? 16.5 X5 is ok. 5.) how many fire extinguishers and triangle kits are desired its duplicated on the bid spec sec 15 & 17? One each 6.) lightbar, where does the city want this mounted?If on the cab shield subject to damages being loaded. suggest omitting it. and going with just item (f) and increasing the rear to 4 and adding two to the sides of the front fenders. we can omitt the light bar and go with suggested 4 strobs in rear 2 front and one on each side of fenders with adding beacon strobe on drivers side cab protection shield. 7.) where is the arrow stick to be mounted? We can omitt arrow stick. 8.) Factory supplies 4 keys standard is this acceptable? Yes	02/09/2018 2:39 PM (Pacific)	2.1
Los Angeles Truck Centers, LLC	01/31/2018 2:54 PM (Pacific)	1.5. B please provide additional information so we can understand what the city is looking for. This is not typical on a dump hyd. system.	We wanted to have a automatic shutdown of the system if the temp. exceeds tequirements.	02/09/2018 2:39 PM (Pacific)	2.2
Los Angeles Truck Centers, LLC	02/01/2018 10:15 AM (Pacific)	The dump spec called out looks to be proprietary, and isnt typical of current built practices Will you accept 1.2 K Mailhot M100 hoist 4.5.3 with air controls this is equal to the "custom brand" requested P pump/valve combo 9GPM @ 1,000 Rpm (if you only had a 25 gal reservoir with a 17GPM flow you would run it dry) q. 21.4 gal reservoir	We will except an equal to in regards to the hoist and go off of the body manufacturer reservoir requirements.	02/09/2018 2:39 PM (Pacific)	2.3

Addenda

Addendum - Released

Addendum Num 1

Addendum Date 01/31/2018

Release Date 01/31/2018

Title IFB 18-003 Addendum No. 1

Description Addendum #1 has been issued to extend the RFI due date and bid due date.

Acknowledgment of this Addendum is required when submitting your bid. This addendum is hereby made part of the referenced bid as through fully set forth therein.

All other provisions of the invitation for bid shall remain in their entirety.

Vendors hereby acknowledge receipt and understanding of the above Addendum.

Thanks,
Jennifer McCoy

Attachments

File Title

IFB No 18-003 Addendum No 1

File Name

IFB No 18-003 Addendum No 1.pdf

Status

On Server

Bid Results

1 Bid Results

Bidder Details

Vendor Name Los Angeles Truck Centers, LLC
Address 2429 S. Peck Road
 Whittier, CA 90601
 United States
Respondee James Blakely
Respondee Title Fleet and Government Sales
Phone 714-357-0024 Ext.
Email jblakely@lafreightliner.com
Vendor Type

Bid Detail

Bid Format Electronic
Submitted February 13, 2018 2:08:30 PM (Pacific)
Delivery Method 140-260 days aor
Bid Responsive Yes
Bid Status Submitted
Confirmation # 131304
Ranking 0

Respondee Comment

500.00 discount for 10day payment net 30.
 Body brochure for reference only

Buyer Comment

Attachments

File Title	File Name	File Type
Documents	Binder1.pdf	Response File

Line Items

Discount Terms		no discount					
Type	Item Code	UOM	Qty	Unit Price	Line Total	Discount	Comment
	Total Bid Amount						
1	Dump Truck	Each	1	\$121,499.0000	\$121,499.0000	\$121,499.0000	
				Subtotal	\$121,499.0000	\$121,499.0000	
				Total	\$121,499.0000	\$121,499.0000	

Project Evaluation

Evaluators

No Evaluators

Meetings

No Meetings

Project Evaluation

Evaluator Forms

No Evaluator Forms

Evaluator Attachments

No Evaluator Attachments

Project Evaluation

Technical Qualifications

No Technical Qualifications

Project Evaluation

Project Evaluation Notes

No Evaluator Attachments

Project Evaluation

Project Evaluation Email

No Project Evaluation Email

Award

Award Status Awarded
Award Date 02/16/2018
Type of Award Lump Sum
Awarded To Los Angeles Truck Centers, LLC (\$121,499.0000)

Type	Item Code	Total Bid Amount	UOM	Qty
1	Dump Truck		Each	1

Public Notes The City thoroughly reviews all viable bids based on the Invitation for Bids Specifications and Scope of Work, references and past performance for each qualified applicant. We received a sufficient selection of responses to this IFB and after the analysis of these variables, Los Angeles Truck Centers, LLC has been selected as the lowest responsible bidder and best choice for the City's needs.

Thank you all for your participation in this process!

Email History**Email - Bid Edit Notice**

Date Sent 01/31/2018

To Utility Crane and Equipment (jerry@utilityce.com), Wattco (ltucker@wattco.net), American Truck & Trailer Body Co., Inc. (robert@attbcinc.com), SOUTH BAY FORD LINCOLN (TRUMANWILLIAMS@sbflm.com), Westrux International (mherman@westrux.com), York Enterprises South (hbfordsales@aol.com), Los Angeles Truck Centers LLC (cburlew@lafreightliner.com), Western Truck Exchange (dan@westtruck.com), Onvia, Inc. (sourcemanagement2@onvia.com), Raceway Ford Inc. (mldner@earthlink.net), fairway ford (fairwayfleet@gmail.com), Los Angeles Truck Centers, LLC (jblakely@lafreightliner.com), PV Inc (shanti@gmail.com), Almared Inc. (jarreola@a1altfuels.com), TUTTLE-CLICK FORD LINCOLN (sschoonover@tuttleclick.com), Trcuk Equipment Associates (watkinsont@sbcglobal.net)

Subject Notice of Bid Update for Dump Truck Purchase (18-003)

Message This is a notification pertaining to **Dump Truck Purchase (18-003)**, with a bid due date of February 16, 2018 10:00 AM (Pacific).

A change has been made to the bid.

Addendum #1 has been posted.

Attachments

No Attachments

Email - Q&A Notice

Date Sent 02/06/2018

To North American Procurement Council (lyra@napc.me), York Enterprises South (hbfordsales@aol.com), Fairview Ford (teff@fairviewford.com), Los Angeles Truck Centers LLC (cburlew@lafreightliner.com), Western Truck Exchange (dan@westtruck.com), Onvia, Inc. (sourcemanagement2@onvia.com), Raceway Ford Inc. (mldner@earthlink.net), fairway ford (fairwayfleet@gmail.com), Los Angeles Truck Centers, LLC (jblakely@lafreightliner.com), Utility Crane and Equipment (jerry@utilityce.com), Wattco (ltucker@wattco.net), American Truck & Trailer Body Co., Inc. (robert@attbcinc.com), SOUTH BAY FORD LINCOLN (TRUMANWILLIAMS@sbflm.com), Westrux International (mherman@westrux.com), warren anderson ford (vgaray@frittsford.com), Universal Truck Body, Inc (utbwilcox@gmail.com), PRECISION AERIAL SERVICES (BILL@PRECISIONAERIALSERVICES.COM), PV Inc (shanti@gmail.com), Almared Inc. (jarreola@a1altfuels.com), TUTTLE-CLICK FORD LINCOLN (sschoonover@tuttleclick.com), Trcuk Equipment Associates (watkinsont@sbcglobal.net)

Subject Q and A Set 1

Message Q & A Set 1

Attachments

No Attachments

Email - Q&A Notice

Date Sent 02/09/2018

To North American Procurement Council (lyra@napc.me), York Enterprises South (hbfordsales@aol.com), Fairview Ford (teff@fairviewford.com), Los Angeles Truck Centers LLC (cburlew@lafreightliner.com), Western Truck Exchange (dan@westtruck.com), Onvia, Inc. (sourcemanagement2@onvia.com), Raceway Ford Inc. (mldner@earthlink.net), fairway ford (fairwayfleet@gmail.com), Los Angeles Truck Centers, LLC (jblakely@lafreightliner.com), Utility Crane and Equipment (jerry@utilityce.com), Wattco (ltucker@wattco.net), American Truck & Trailer Body Co., Inc. (robert@attbcinc.com), SOUTH BAY FORD LINCOLN (TRUMANWILLIAMS@sbflm.com), Westrux International (mherman@westrux.com), warren anderson ford (vgaray@frittsford.com), Universal Truck Body, Inc (utbwilcox@gmail.com), PRECISION AERIAL SERVICES (BILL@PRECISIONAERIALSERVICES.COM), PV Inc (shanti@gmail.com), Almared Inc. (jarreola@a1altfuels.com), TUTTLE-CLICK FORD LINCOLN (sschoonover@tuttleclick.com), Trcuk Equipment Associates (watkinsont@sbcglobal.net)

Subject Q and A Set 2

Message Q & A Set 2

Attachments

No Attachments

Email History**Email - Bid Closing Reminder****Date Sent** 02/15/2018

To Utility Crane and Equipment (jerrym@utilityce.com), Wattco (ltucker@wattco.net), American Truck & Trailer Body Co., Inc. (robert@attbcinc.com), SOUTH BAY FORD LINCOLN (TRUMANWILLIAMS@sbflm.com), Westrux International (mherman@westrux.com), warren anderson ford (vgaray@frittsford.com), Universal Truck Body, Inc (utbwilcox@gmail.com), North American Procurement Council (lyra@napc.me), York Enterprises South (hbfordsales@aol.com), Fairview Ford (teff@fairviewford.com), Los Angeles Truck Centers LLC (cburlew@lafreightliner.com), Western Truck Exchange (dan@westtruck.com), Onvia, Inc. (sourcemanagement2@onvia.com), Raceway Ford Inc. (mldner@earthlink.net), fairway ford (fairwayfleet@gmail.com), Los Angeles Truck Centers, LLC (jblakely@lafreightliner.com), Greenkraft Inc (sosi@greenkraftinc.com), PRECISION AERIAL SERVICES (BILL@PRECISIONAERIALSERVICES.COM), PV Inc (shanti@gmail.com), Almared Inc. (jarreola@a1alfuels.com), TUTTLE-CLICK FORD LINCOLN (sschoonover@tuttleclick.com), Trcuk Equipment Associates (watkinsont@sbcglobal.net)

Subject Bid Closing Reminder for Dump Truck Purchase (18-003)**Message** This is a reminder that all bids for Dump Truck Purchase (18-003) are due on February 16, 2018 10:00 AM (Pacific).

All bids must be received prior to bid closing. If you wish to edit a submitted bid you have until bid closing to do so. Please visit the bid details for further information.

If you do not intend to bid, please update your prospective bidder status to non-bidder by clicking on the "My PB Profile" button on the Prospective Bidders tab.

Attachments

No Attachments

Email - Award Notice**Date Sent** 03/13/2018**To** Los Angeles Truck Centers, LLC (jblakely@lafreightliner.com)**Subject** Attention All Bidders: An Award has been posted for Dump Truck Purchase (18-003)**Message** This is a notification that an award has been issued for Dump Truck Purchase (18-003), with a bid due date of February 16, 2018 10:00 AM (Pacific).

Please visit the bid details to receive the latest information.

Attn. Bidders:

The City thoroughly reviews all viable bids based on the Invitation for Bids Specifications and Scope of Work, references and past performance for each qualified applicant. We received a sufficient selection of responses to this IFB and after the analysis of these variables, Los Angeles Truck Centers, LLC has been selected as the lowest responsible bidder and best choice for the City's needs.

Thank you all for your participation in this process! Feel free to contact me with questions.

Jennifer McCoy
Purchasing Manager
951-922-3121

Attachments

File Title	File Name	Status
IFB #18-003 Notice of Intent to Award	Intent-to-Award Online Notification.pdf	On Server

ATTACHMENT 4

PlanetBid Award Summary Sample #2

Bid Detail**Bid Information**

Project Title	Project No. 2017-14, "Lions Park Ballfield Fencing"
Invitation No.	17-101
Bid Posting Date	October 27, 2017 6:46 AM (Pacific)
Project Stage	Awarded
Bid Due Date	November 22, 2017 3:00 PM (Pacific)
Response Format	Electronic only
Link to Project on Public Site	https://www.planetbids.com/portal/portal.cfm?CompanyID=33077&BidID=43459
Reference ID	C00378
Project Type	Bid
Response Types	Line Item, General Attachments
Type of Award	Lump Sum
Categories	330013 - FENCING: CHAIN LINK FENCE/INSTALL 805045 - SPORTING & ATHLETIC EQUIP: FENCING EQUIPMENT
License Requirements	Class C-13 Fencing Contractor
Department	PW - Engineering Division
Address	99 E. Ramsey St., Banning, California
County	Riverside
Bid Valid	45 Days
Liquidated Damages	
Engineer's Estimate	\$33,000.00
Estimated Bid Value	\$33,000.00
Start/Delivery Date	Based upon PO/Contract approval
Project Duration	Until Completion
Prevailing Wage	Yes
Cooperative Bid	No
Piggy-backable	No
eBid Notes	Electronic Bids shall be submitted via the City's secure online bidding system. All required sections of the Bid must be submitted via the website. Bidder is solely responsible for "on time" submission of their electronic bid. Bid attachment documents shall be signed in ink and included with the electronic bid submission as a general attachment.
Preferences	Local - Local Business
Restriction Type	None
Restricted To	

Bid Bond Information

Bid	10.0%
Performance	100.0%
Payment	100.0%

Pre-Bid Meeting Information

Pre-Bid Meeting	No
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Online Q&A

Online Q&A	Yes
Q&A Cutoff Date	November 14, 2017 10:00 AM (Pacific)

Contact Information

Contact Info	Jennifer McCoy - 951-922-3121 jmccoy@ci.banning.ca.us
Bids to Owner's Agent	

Bid Detail

Description

Scope of Services The scope of work under this project includes the demolition and disposal of the identified existing chain link fencing along perimeter segments of three (3) ballfields located at Lions Park. Once fencing segments are removed, the contractor shall replace the fencing with new commercial grade chain link fencing as required and detailed below including the installation of chain link fencing complete with all commercial grade galvanized steel posts, braces, gates, and all other appurtenances. The bid shall include all costs for furnishing all labor, materials, tools, equipment and necessary incidentals to perform work including but not limited to mobilization, participation in safety meetings and clean up. Work and materials shall be per Standard Specifications for Public Works ("Greenbook"), latest edition, unless otherwise modified below. Appendix "A" provides a site map of Lions Park Ballfields. Pictures of the existing location are shown in Appendix "B". The prospective bidders are responsible for visiting and becoming familiar with the site and its need and to take the opportunity to verify existing conditions and quantities for the project.

Other Details Attachments:

1. Notice to Bidders
2. Bid Specifications to include Bid Schedule (Must be submitted online with your e-Bid).

Notes E-Bids are sealed and cannot be viewed by the City until the closing date and time. If you need to withdraw your bid, you may do so any time before the bid deadline, by going back into the system and selecting "Withdraw".

Local Programs & Policies

Special Notices Bid Bonds are to be scanned and submitted electronically AND submitted in a sealed envelope by the bid deadline. Each Bid Bond must be submitted in a sealed envelope, addressed to the Owner at the above-referenced address.

Downloadable Files

File Title	File Name	File Size	On Server	Uploaded Date	Visible
IFB 17-101 Project 2014-14 Bid Specifications	IFB 17-101 Project 2017-14 Lions Park Ballfield Fencing Bid Documents.pdf	3.5 mb	On Server	10/25/2017	No
IFB 17-101 Notice to Bidders	IFB 17-101 Legal Ad.pdf	84.2 kb	On Server	10/25/2017	Yes
Download File Fee \$0.00					

Hard Copy Plans

Title/Description	Receive From	Plan Fee	Mailing Fee	Refund
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Line Items

Type	Item Code	UOM	Qty	Unit Price	Ref
Total Bid Amount (Items 1-7)					
1	Mobilization				
	Item #1	LS	1		
2	Ballfield 1: remove and dispose existing fence				
	Item #2	FT	414		
3	Ballfield 1: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances				
	Item #3	FT	414		
4	Ballfield 2: remove and dispose existing fence				
	Item #4	FT	600		
5	Ballfield 2: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances				
	Item #5	FT	600		
6	Ballfield 3: remove and dispose existing fence				
	Item #6	EA	510		
7	Ballfield 3: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances				
	Item #7	EA	510		

Vendor Notifications

500 external vendors notified through BidBroadcast

12 City of Banning vendors notified

Notified Vendors on October 27, 2017

Using Criteria Category:330013 - FENCING: CHAIN LINK FENCE/INSTALL
805045 - SPORTING & ATHLETIC EQUIP: FENCING EQUIPMENT**A&A Fence Company, Inc.** (530015)
579 E. Lincoln St.
Banning, CA 92220
United States**Contact:** Austin Aguilera
Phone: 951-215-5450
Fax:
Email: aaguiler@aandafence.com**AB FENCE COMPANY**(530451)
1130 WELLWOOD AVE
BEAUMONT, CA 92223
United States**Contact:** ALBERTO BEDOLLA CADIR
Phone: 909-453-3258
Fax: 909-453-3254
Email:
SALES@ABFENCECOMPANY.COM**Alcorn Fence Company** (531677)
6445 Pedley Road
Riverside, CA 92509
United States**Contact:** Bob
Phone: 951-685-5871
Fax:
Email:
bobgibson@alcornfence.com**AZ Construction Inc.** (528575)
727 N Glendora Ave.
La Puente, CA 91744
United States**Contact:** Ben Layos MBE,CADIR,WBE
Phone: 626-333-0727
Fax:
Email:
blayos@acefencecompany.com**BWW & Company** (553111)
301 n 9th street, ste 100
b-w-w@live.com
Redlands, CA 92374
United States**Contact:** BOBBY W WILSON DGS,DBE,MBE,CADIR
Phone: 909-268-8516
Fax: 909-435-0392
Email: b-w-w@live.com**Compendium International, Inc.**
(530500)
27422 Portola Parkway, Suite 345
Foothill Ranch, CA 92610
United States**Contact:** Mo Entezar
Phone: 800-983-1190
Fax:
Email: entezar@cmp2i.com**Excel Door & Gate Co., Inc.** (531099)
PO Box 4924

Riverside, CA 92514
United States**Contact:** Rod Pascascio DGS,CADIR
Phone: 951-352-9307
Fax: 951-352-5991
Email: rod@exceldoor.com**Gold Star Fence, Inc.** (531224)
1142 Sagebrush Avenue
San Jacinto, CA 92582
United States**Contact:** Luis Banuelos
Phone: 951-305-2736
Fax:
Email: luis@goldstarfence.net**Moore Fence Company Inc** (530710)
280 E. First St.
Perris, CA 92570
United States**Contact:** Jarold Smollen
Phone: 951-772-2320
Fax: 951-940-0429
Email: jarold@moorefence.net**REDHAWKSERVICES** (531448)
262 E. First Street
PERRIS, CA 92570
United States**Contact:** Jarold Smollen MBE,CADIR,WBE
Phone: 951-657-6400
Fax: 951-657-6442
Email: jarold@redhawkservices.us**Team West Contracting Corp** (527703)
1611 Jenks DR
Corona, CA 92880
United States**Contact:** Joseph Maletic
Phone: 951-340-3426
Fax: 951-340-3428
Email: joseph@twc-corp.com

Notified Vendors on November 16, 2017

Using Criteria Category:330013 - FENCING: CHAIN LINK FENCE/INSTALL
805045 - SPORTING & ATHLETIC EQUIP: FENCING EQUIPMENT

Vendor Notifications

Golden Empire Concrete Products Inc
(571304)
8261 McCutchen Road
Bakersfield, CA 93311
United States

Contact: Anna Dezember
Phone: 661-833-4490
Fax: 661-280-5626
Email: anna@structurecast.com

DGS,CADIR,WBE

Notified Vendors on November 17, 2017

Using Criteria Category:

330013 - FENCING: CHAIN LINK FENCE/INSTALL
805045 - SPORTING & ATHLETIC EQUIP: FENCING EQUIPMENT

Notified Vendors on November 17, 2017

Using Criteria Category:

330013 - FENCING: CHAIN LINK FENCE/INSTALL
805045 - SPORTING & ATHLETIC EQUIP: FENCING EQUIPMENT

Notified Vendors on November 21, 2017

Using Criteria Category:

330013 - FENCING: CHAIN LINK FENCE/INSTALL
805045 - SPORTING & ATHLETIC EQUIP: FENCING EQUIPMENT

Prospective Bidders

24 Prospective Bidders

Vendor	Contact	Vendor Type	Pre-Bid	Classification	Status
AGC San Diego Chapter 6212 Ferris Sq. San Diego, CA 92121 United States	Contact: Plan Room Phone: 858-558-7444 Fax: Email: planroom@agcsd.org			Other	Non-Bidder, receive communications
Alcorn Fence Company 6445 Pedley Road Riverside, CA 92509 United States	Contact: Bob Phone: 951-685-5871 Fax: Email: bobgibson@alcornfence.com			Prime	Bidder
KSJV3 Inc. 13477 Louvre St Pacoima, CA 91331 United States	Contact: yusheng shew Phone: 626-922-8757 Fax: 818-890-0511 Email: yushengx@shewenterprise.com			Prime	Bidder
Sandwood Enterprises Inc. 2424 N Batavia St. Orange, CA 92865 United States	Contact: Jason E. Vos Phone: 714-637-2000 Fax: Email: jason@swentinc.com	CADIR		Prime	Bidder
Fencecorp Inc 111 Main Street Riverside, CA 92501 United States	Contact: Branden Acrey Phone: 760-217-4346 Fax: Email: b.acreyc@fencecorp.us			Subcontractor	Bidder
AB FENCE COMPANY 1440 BEAUMONT AVE BEAUMONT, CA 92223 United States	Contact: ALBERTO BEDOLLA Phone: 909-453-3258 Fax: 909-453-3254 Email: SALES@ABFENCECOMPANY.COM	CADIR		Prime	Bidder
Onvia, Inc. 509 Olive Way Seattle, WA 98101 United States	Contact: Source Management Phone: 206-373-9500 Fax: Email: sourcemanagement2@onvia.com			Prime	Bidder
CONSTRUCTION BIDBOARD 11622 EL CAMINO REAL SUITE 100 SAN DIEGO, CA 92130 United States	Contact: N RIVERS Phone: 800-479-5314 Fax: 619-688-0585 Email: PLANROOM@EBIDBOARD.COM			Other	Bidder
JM Justus Fence Company 31501 Corte Pacheco Temecula, CA 92592 United States	Contact: Daniel Justus Phone: 951-699-1563 Fax: Email: jmjustusfence@msn.com	CADIR		Prime	Bidder
Priority One Fence 125 E Chestnut Walla Walla, CA 99362 United States	Contact: Tyler Phone: 951-551-6982 Fax: Email: priorityonefence@yahoo.com			Other	Non-Bidder, no communications
REDHAWKSERVICES 262 E. First Street PERRIS, CA 92570 United States	Contact: Jarold Smollen Phone: 951-657-6400 Fax: 951-657-6442 Email: jarold@redhawkservices.us	MBE,CADIR ,WBE		Prime	Bidder
Raffis Metal Design 534 East Fig Avenue Monrovia, CA 91016 United States	Contact: Keith Cole Phone: 626-506-1339 Fax: Email: keith@raffismetaldesign.com			Prime	Bidder
Construction Bid Source 6265 Hwy 9 Felton, CA 95018 United States	Contact: Martha Lantz Phone: 888-786-9450 Fax: 800-560-7266 Email: martie@constructionbidsource.com			Other	Non-Bidder, no communications
North American Procurement Council PO Box 40445 Grand Junction, CO 81504 United States	Contact: Lyra De Asis Phone: 302-450-1923 Fax: Email: lyra@napc.me			Other	Bidder
On Point Land Surveying, Inc. 1910 Orange Tree Lane Suite 344 Redlands, CA 92374 United States	Contact: Shari Todd Phone: 909-792-2221 Fax: Email: shari@onpointlandsurveying.com	DGS,CADIR		Subcontractor	Bidder

Prospective Bidders

Jacob Flud 24794 Tumbleweed Court Murrieta, CA 92563 United States	Contact: Jacob Flud Phone: 951-816-8835 Fax: Email: drivenfence_jake@yahoo.com		Prime	Bidder
AZ Construction Inc. 727 N Glendora Ave. La Puente, CA 91744 United States	Contact: Ben Layos Phone: 626-333-0727 Fax: Email: blayos@acefencecompany.com	MBE,CADIR ,WBE	Prime	Bidder
bid america 41085 Elm Street Murrieta, CA 92562 United States	Contact: Abdul Phone: 951-677-4819 Fax: Email: planroom@bidamerica.com		Other	Bidder
Gold Star Fence, Inc. 1142 Sagebrush Avenue San Jacinto, CA 92582 United States	Contact: Luis Banuelos Phone: 951-305-2736 Fax: Email: luis@goldstarfence.net		Prime	Bidder
CalBX 2440 Stanwell Drive Concord, CA 94520 United States	Contact: Brian Tyson Phone: 303-997-5501 Fax: Email: brian@calbx.com		Other	Non-Bidder, receive communicati ons
American Fence Co. 9944 Prospect Ave Santee, CA 92071 United States	Contact: Tim McKeon Phone: 619-258-3680 ext. 1427 Fax: Email: tim.mckeon@americanfence.com		Prime	Bidder
Econo Fence Inc. 5261 Pedley Rd. Riverside , CA 92509 United States	Contact: Amanda Johnson Phone: 951-685-5000 ext. 101 Fax: 951-360-8685 Email: ajohnson@econofenceinc.com		Prime	Bidder
DefenceCo 14528 Los Angeles Street Baldwin Park, CA 91706 United States	Contact: Susan Gutierrez Phone: 626-338-2288 Fax: Email: Admin@defenceco.com		Prime	Bidder
Gary's Fencing & Wire Supplies 4718 Hammett Rd Modesto, CA 95358 United States	Contact: Tim Gorne Phone: 209-545-3331 Fax: 209-545-9932 Email: garysfencing@att.net		Subcontractor	Bidder

Q & A

Vendor	Submit Date	Question	Answer	Release Date	Set
Raffis Metal Design	11/08/2017 9:38 AM (Pacific)	In the Procedural documents Section 1-3 Required License Classification, paragraph 1 indicates that the owner has determined that a Class C-13 Fencing Contractors License is necessary to bid this project. Does that mean that a California Class B Contractors License or a California Class C-23 specialty License will not be allowed to bid?	The City will accept a Class B, not a Class C-23.	11/17/2017 7:54 AM (Pacific)	1.1
Sandwood Enterprises Inc.	11/09/2017 10:10 AM (Pacific)	Will you accept a "B" General Contractor license to bid this job?	Yes	11/17/2017 7:54 AM (Pacific)	1.2
Fencecorp Inc	11/10/2017 9:06 AM (Pacific)	Can the existing posts be cut off below grade and dig new footings next to existing footings? What size diameter line posts are required? What size diameter and depth are required for the footings? Is a bottom Rail required throughout? Is the Fabric to be 9ga? Are all posts and rail to be sch40?	Existing footings are to be removed. Line posts are to be commercial grade 2-3/8" diameter. At a minimum, footing shall be 12" diameter and 24" depth. No bottom rail required. Contractor to include costs for bottom rail as an alternative bid. Fabric to be 9 ga, commercial grade. All posts and rails to be sch40.	11/17/2017 7:54 AM (Pacific)	1.3
Fencecorp Inc	11/13/2017 11:43 AM (Pacific)	What size diameter line posts are required? Is a bottom rail required? Is the fabric to be 9 ga? What shall the diameter and depth of the footings be? Can the existing posts be cut off below grade? Can the new fence post and footings be placed next to the existing post footings?	See above.	11/17/2017 7:54 AM (Pacific)	1.4
	11/17/2017 7:31 AM (Pacific)	Will this project be on a 6 month terms or 1 year?	The fencing improvements are to be permanent and not temporary.	11/21/2017 7:36 AM (Pacific)	2.1
	11/17/2017 7:31 AM (Pacific)	Is the existing fence that needs to be disposed of currently driven into concrete or dirt?	The fence post are in concrete.	11/21/2017 7:36 AM (Pacific)	2.2
	11/17/2017 7:31 AM (Pacific)	What size gates do you need? Pedestrian or vehicle gates? And how many?	Please refer to the site plan included in the bid package.	11/21/2017 7:36 AM (Pacific)	2.3

Addenda

Addendum - Released

Addendum Num 1

Addendum Date 11/16/2017

Release Date 11/16/2017

Title IFB 17-101 Addendum #1

Description Addendum #1 has been issued to reflect the changes to the license requirements in the bid documents.

Attachments

File Title	File Name	Status
IFB 17-101 Addendum 1	IFB 17-101 Addendum 1.pdf	On Server

Bid Results

7 Bid Results

Bidder Details

Vendor Name KSJV3 Inc.
Address 13477 Louvre St
 Pacoima, CA 91331
 United States
Respondee Jose Guerrero
Respondee Title Project Manager
Phone 626-202-9278 Ext.
Email joseg@shewenterprise.com
Vendor Type
License #
CA DIR

Bid Detail

Bid Format Electronic
Submitted November 22, 2017 11:49:38 AM (Pacific)
Delivery Method
Bid Responsive Yes
Bid Status Submitted
Confirmation # 124072
Ranking 0

Respondee Comment

FIVE STAR FENCE

Buyer Comment

Attachments

File Title	File Name	File Type
KSJV3 bda FIVE STAR FENCE- BID	City of Banning-Lions Park Ballfield-Fencing-Bid Documents.pdf	Bid Response

Line Items

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
Total Bid Amount (Items (1-7))						
1	Mobilization					
	Item #1	LS	1	\$2,100.00	\$2,100.00	
2	Ballfield 1: remove and dispose existing fence					
	Item #2	FT	414	\$9.00	\$3,726.00	
3	Ballfield 1: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #3	FT	414	\$50.00	\$20,700.00	
4	Ballfield 2: remove and dispose existing fence					
	Item #4	FT	600	\$9.00	\$5,400.00	
5	Ballfield 2: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #5	FT	600	\$43.50	\$26,100.00	

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
6	Ballfield 3: remove and dispose existing fence					
	Item #6	EA	510	\$9.00	\$4,590.00	
7	Ballfield 3: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #7	EA	510	\$45.00	\$22,950.00	
				Subtotal	\$85,566.00	
				Total	\$85,566.00	

Bid Results

Bidder Details

Vendor Name Econo Fence Inc.
Address 5261 Pedley Rd.
 Riverside , CA 92509
 United States
Respondee Amanda Johnson
Respondee Title President
Phone 951-685-5000 Ext. 101
Email ajohnson@econofenceinc.com
Vendor Type
License # 337734
CA DIR

Bid Detail

Bid Format Electronic
Submitted November 21, 2017 2:37:51 PM (Pacific)
Delivery Method
Bid Responsive Yes
Bid Status Submitted
Confirmation # 124018
Ranking 0

Respondee Comment

Buyer Comment

Attachments

File Title	File Name	File Type
Bid docs and Atttchmnts.	IFB 17-101 Project 2017-14 Lions Park Ballfield Fencing Bid Doc.pdf	Bid Response

Line Items

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
Total Bid Amount (Items 1-7)						
1	Mobilization					
	Item #1	LS	1	\$736.50	\$736.50	
2	Ballfield 1: remove and dispose existing fence					
	Item #2	FT	414	\$5.50	\$2,277.00	
3	Ballfield 1: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #3	FT	414	\$33.75	\$13,972.50	Alt.#1(Add)Btm.Rail \$4.50/lf, \$1,863.00
4	Ballfield 2: remove and dispose existing fence					
	Item #4	FT	600	\$5.30	\$3,180.00	
5	Ballfield 2: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #5	FT	600	\$25.30	\$15,180.00	Alt.#1(Add)Btm.Rail \$4.50/lf, \$2,700.00

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
6	Ballfield 3: remove and dispose existing fence					
	Item #6	EA	510	\$5.40	\$2,754.00	
7	Ballfield 3: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #7	EA	510	\$29.50	\$15,045.00	Alt.#1(Add)Btm.Rail \$4.50/lf, \$2,295.00
				Subtotal	\$53,145.00	
				Total	\$53,145.00	

Bid Results

Bidder Details

Vendor Name REDHAWKSERVICES
Address 262 E. First Street
 PERRIS, CA 92570
 United States
Respondee Rebecca Hillburn
Respondee Title Contract Administrator
Phone 951-657-6400 Ext.
Email rebecca@redhawkservices.us
Vendor Type MBE,CADIR,WBE
License # 971584
CA DIR

Bid Detail

Bid Format Electronic
Submitted November 22, 2017 11:47:08 AM (Pacific)
Delivery Method
Bid Responsive Yes
Bid Status Submitted
Confirmation # 124000
Ranking 0

Respondee Comment

Buyer Comment

Attachments

File Title	File Name	File Type
Bid Proposal and Bond	Bid Proposal and Bond.pdf	Bid Response

Line Items

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
Total Bid Amount (Items 1-7)						
1	Mobilization					
	Item #1	LS	1	\$2,227.25	\$2,227.25	
2	Ballfield 1: remove and dispose existing fence					
	Item #2	FT	414	\$5.18	\$2,144.52	
3	Ballfield 1: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #3	FT	414	\$40.82	\$16,899.48	
4	Ballfield 2: remove and dispose existing fence					
	Item #4	FT	600	\$5.18	\$3,108.00	
5	Ballfield 2: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #5	FT	600	\$30.27	\$18,162.00	
6	Ballfield 3: remove and dispose existing fence					
	Item #6	EA	510	\$5.18	\$2,641.80	

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
7	Ballfield 3: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #7	EA	510	\$32.66	\$16,656.60	
				Subtotal	\$61,839.65	
				Total	\$61,839.65	

Bid Results

Bidder Details

Vendor Name JM Justus Fence Company
Address 31501 Corte Pacheco
 Temecula, CA 92592
 United States
Respondee Daniel Justus
Respondee Title Partner
Phone 951-699-1563 Ext.
Email jmjustusfence@msn.com
Vendor Type CADIR
License # 847847
CA DIR

Bid Detail

Bid Format Electronic
Submitted November 22, 2017 1:45:44 PM (Pacific)
Delivery Method
Bid Responsive Yes
Bid Status Submitted
Confirmation # 124135
Ranking 0

Respondee Comment

Buyer Comment

Attachments

File Title	File Name	File Type
Bid Response	CCF11222017_00003.pdf	Bid Response

Line Items

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
Total Bid Amount (Items 1-7)						
1	Mobilization					
	Item #1	LS	1	\$2,000.00	\$2,000.00	
2	Ballfield 1: remove and dispose existing fence					
	Item #2	FT	414	\$7.00	\$2,898.00	
3	Ballfield 1: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #3	FT	414	\$28.00	\$11,592.00	
4	Ballfield 2: remove and dispose existing fence					
	Item #4	FT	600	\$7.00	\$4,200.00	
5	Ballfield 2: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #5	FT	600	\$28.00	\$16,800.00	
6	Ballfield 3: remove and dispose existing fence					
	Item #6	EA	510	\$7.00	\$3,570.00	

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
7	Ballfield 3: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #7	EA	510	\$28.00	\$14,280.00	
				Subtotal	\$55,340.00	
				Total	\$55,340.00	

Bid Results

Bidder Details

Vendor Name Fencecorp Inc
Address 111 Main Street
 Riverside, CA 92501
 United States

Respondee Branden Acrey
Respondee Title Estimator
Phone 951-686-3170 Ext.
Email b.acre@fencecorp.us
Vendor Type
License #
CA DIR

Bid Detail

Bid Format Electronic
Submitted November 20, 2017 12:31:31 PM (Pacific)
Delivery Method
Bid Responsive Yes
Bid Status Submitted
Confirmation # 123896
Ranking 0

Respondee Comment

Buyer Comment

Attachments

File Title	File Name	File Type
Lions	Lions Proposal.pdf	Bid Response

Line Items

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
Total Bid Amount (Items 1-7)						
1	Mobilization					
	Item #1	LS	1	\$1,655.48	\$1,655.48	
2	Ballfield 1: remove and dispose existing fence					
	Item #2	FT	414	\$11.15	\$4,616.10	
3	Ballfield 1: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #3	FT	414	\$31.85	\$13,185.90	
4	Ballfield 2: remove and dispose existing fence					
	Item #4	FT	600	\$7.72	\$4,632.00	
5	Ballfield 2: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #5	FT	600	\$23.81	\$14,286.00	
6	Ballfield 3: remove and dispose existing fence					
	Item #6	EA	510	\$9.10	\$4,641.00	

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
7	Ballfield 3: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #7	EA	510	\$25.31	\$12,908.10	
				Subtotal	\$55,924.58	
				Total	\$55,924.58	

Bid Results

Bidder Details

Vendor Name Raffis Metal Design
Address 534 East Fig Avenue
 Monrovia, CA 91016
 United States
Respondee Keith Cole
Respondee Title Marketing Manager
Phone 626-356-0293 Ext.
Email keith@raffismetaldesign.com
Vendor Type
License #
CA DIR

Bid Detail

Bid Format Electronic
Submitted November 21, 2017 11:04:39 AM (Pacific)
Delivery Method
Bid Responsive Yes
Bid Status Submitted
Confirmation # 123994
Ranking 0

Respondee Comment

Submitting bid for 2017-14 "Lions Park Ball field Fencing"

Buyer Comment

Attachments

File Title	File Name	File Type
Bid For lions field 17-1012	City of Banning Bid 17-101 project 2017-14.pdf	Bid Response

Line Items

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
Total Bid Amount (Items 1-7)						
1	Mobilization					
	Item #1	LS	1	\$8,758.00	\$8,758.00	
2	Ballfield 1: remove and dispose existing fence					
	Item #2	FT	414	\$12.91	\$5,344.74	
3	Ballfield 1: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #3	FT	414	\$58.61	\$24,264.54	
4	Ballfield 2: remove and dispose existing fence					
	Item #4	FT	600	\$12.91	\$7,746.00	
5	Ballfield 2: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #5	FT	600	\$61.95	\$37,170.00	

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
6	Ballfield 3: remove and dispose existing fence					
	Item #6	EA	510	\$12.91	\$6,584.10	
7	Ballfield 3: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #7	EA	510	\$63.14	\$32,201.40	
				Subtotal	\$122,068.78	
				Total	\$122,068.78	

Bid Results

Bidder Details

Vendor Name Alcorn Fence Company
Address 6445 Pedley Road
 Riverside, CA 92509
 United States
Respondee Bob Gibson
Respondee Title Sr. Vice President
Phone 951-685-5871 Ext.
Email bobgibson@alcornfence.com
Vendor Type
License #
CA DIR

Bid Detail

Bid Format Electronic
Submitted November 22, 2017 12:08:20 PM (Pacific)
Delivery Method
Bid Responsive No
Bid Status Submitted
Confirmation # 123998
Ranking 0

Respondee Comment

Buyer Comment

Bid procedural documents and license information not provided.

Attachments

File Title	File Name	File Type
Bid Bond & Addendum 1	City of Banning.pdf	Bid Response

Line Items

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
Total Bid Amount (Items 1-7)						
1	Mobilization					
	Item #1	LS	1	\$1,800.00	\$1,800.00	
2	Ballfield 1: remove and dispose existing fence					
	Item #2	FT	414	\$11.65	\$4,823.10	
3	Ballfield 1: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #3	FT	414	\$29.00	\$12,006.00	
4	Ballfield 2: remove and dispose existing fence					
	Item #4	FT	600	\$8.40	\$5,040.00	
5	Ballfield 2: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #5	FT	600	\$25.10	\$15,060.00	

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Comment
6	Ballfield 3: remove and dispose existing fence					
	Item #6	EA	510	\$9.45	\$4,819.50	
7	Ballfield 3: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances					
	Item #7	EA	510	\$27.25	\$13,897.50	
				Subtotal	\$57,446.10	
				Total	\$57,446.10	

Project Evaluation

Evaluators

No Evaluators

Meetings

No Meetings

Project Evaluation

Evaluator Forms

No Evaluator Forms

Evaluator Attachments

No Evaluator Attachments

Project Evaluation

Technical Qualifications

Vendor Name	Bid Bond	Addenda Acknowledged	License	Bid Procedural Documents	Online Price Sheet Completed
	Original Bid Bond Received		Class B or Class C-13	Sections 1.3 Pg. I-9 through I-20	
	mandatory	mandatory	mandatory	mandatory	mandatory
Alcorn Fence Company	Pass	Pass	Fail	Fail	Pass
Econo Fence Inc.	Pass	Pass	Pass	Pass	Pass
Fencecorp Inc	Pass	Pass	Pass	Pass	Pass
JM Justus Fence Company	Pass	Pass	Pass	Pass	Pass
KSJV3 Inc.	Pass	Pass	Pass	Pass	Pass
Raffis Metal Design	Pass	Pass	Pass	Pass	Pass
REDHAWKSERVICES	Pass	Pass	Pass	Pass	Pass

Vendor Name	Overall
Description	
Alcorn Fence Company	Fail
Econo Fence Inc.	Pass
Fencecorp Inc	Pass
JM Justus Fence Company	Pass
KSJV3 Inc.	Pass
Raffis Metal Design	Pass
REDHAWKSERVICES	Pass

Project Evaluation

Project Evaluation Notes

No Evaluator Attachments

Project Evaluation

Project Evaluation Email

No Project Evaluation Email

Award

Award Status Awarded
Award Date 11/24/2017
Type of Award Lump Sum
Awarded To Econo Fence Inc. (\$53,145.00)

Type	Item Code	UOM	Qty
Total Bid Amount (Items 1-7)			
1	Mobilization		
	Item #1	LS	1
2	Ballfield 1: remove and dispose existing fence		
	Item #2	FT	414
3	Ballfield 1: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances		
	Item #3	FT	414
4	Ballfield 2: remove and dispose existing fence		
	Item #4	FT	600
5	Ballfield 2: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances		
	Item #5	FT	600
6	Ballfield 3: remove and dispose existing fence		
	Item #6	EA	510
7	Ballfield 3: supply and install 4-foot chain-link fence, level tapered biased including gates, posts, braces and appurtenances		
	Item #7	EA	510

Public Notes Notice of Intent to Award: The City of Banning has selected Econo Fence, Inc. as the overall responsible bidder for IFB #17-101.

Email History**Email - Q&A Notice****Date Sent** 11/17/2017**To** AGC San Diego Chapter (planroom@agcsd.org), Alcorn Fence Company (bobgibson@alcornfence.com), KSJV3 Inc. (yushengx@shewenterprise.com), Sandwood Enterprises Inc. (jason@swentinc.com), Fencecorp Inc (b.acre@fencecorp.us), AB FENCE COMPANY (SALES@ABFENCECOMPANY.COM), Onvia, Inc. (sourcemanagement2@onvia.com), CONSTRUCTION BIDBOARD (PLANROOM@EBIDBOARD.COM), JM Justus Fence Company (jmjustusfence@msn.com), REDHAWKSERVICES (jarold@redhawksservices.us), Raffis Metal Design (keith@raffismetaldesign.com), North American Procurement Council (lyra@napc.me), On Point Land Surveying, Inc. (shari@onpointlandsurveying.com), bid america (planroom@bidamerica.com), CalBX (brian@calbx.com), American Fence Co. (tim.mckeon@americanfence.com), Econo Fence Inc. (ajohnson@econofenceinc.com), DefenceCo (Admin@defenceco.com), Gary's Fencing & Wire Supplies (garysfencing@att.net)**Subject** Q and A Set 1**Message** Q & A Set 1**Attachments**

No Attachments

Email - Q&A Notice**Date Sent** 11/21/2017**To** AGC San Diego Chapter (planroom@agcsd.org), Alcorn Fence Company (bobgibson@alcornfence.com), KSJV3 Inc. (yushengx@shewenterprise.com), Sandwood Enterprises Inc. (jason@swentinc.com), Fencecorp Inc (b.acre@fencecorp.us), AB FENCE COMPANY (SALES@ABFENCECOMPANY.COM), Onvia, Inc. (sourcemanagement2@onvia.com), CONSTRUCTION BIDBOARD (PLANROOM@EBIDBOARD.COM), JM Justus Fence Company (jmjustusfence@msn.com), REDHAWKSERVICES (jarold@redhawksservices.us), Raffis Metal Design (keith@raffismetaldesign.com), North American Procurement Council (lyra@napc.me), On Point Land Surveying, Inc. (shari@onpointlandsurveying.com), AZ Construction Inc. (blayos@acefencecompany.com), bid america (planroom@bidamerica.com), CalBX (brian@calbx.com), American Fence Co. (tim.mckeon@americanfence.com), Econo Fence Inc. (ajohnson@econofenceinc.com), DefenceCo (Admin@defenceco.com), Gary's Fencing & Wire Supplies (garysfencing@att.net)**Subject** Q and A Set 2**Message** Q & A Set 2**Attachments**

No Attachments

Email History

Email - Award Notice

Date Sent 11/28/2017

To KSJV3 Inc. (joseg@shewenterprise.com), Econo Fence Inc. (ajohnson@econofenceinc.com), Sandwood Enterprises Inc. (jason@swentinc.com), REDHAWKSERVICES (rebecca@redhawkservices.us), JM Justus Fence Company (jmjustusfence@msn.com), Fencecorp Inc (b.acrey@fencecorp.us), Raffis Metal Design (keith@raffismetaldesign.com), Alcorn Fence Company (bobgibson@alcornfence.com)

Subject Attention All Bidders: An Award has been posted for Project No. 2017-14, "Lions Park Ballfield Fencing" (17-101)

Message This is a notification that an award has been issued for Project No. 2017-14, "Lions Park Ballfield Fencing" (17-101), with a bid due date of November 22, 2017 3:00 PM (Pacific).

Please visit the bid details to receive the latest information.

Attention Bidders:

The City thoroughly reviews all viable bids based on the Invitation to Bid Specifications and Scope of Work, Specification Compliance Checklist, references and past performance for each qualified applicant. We received an acceptable selection of responses to this IFB and after the analysis of these variables, Econo Fence, Inc. has been selected as the lowest responsible bidder and best choice for the City's needs.

You may elect to view the bid summary reports at the link below. The department is tentatively scheduled to obtain the City of Banning a Council approval on December 12, 2017. If the Council approves the recommendation, we will move forward with executing the vendor contract.

Thank you all for your participation in this process! Feel free to contact me with questions.

<https://www.planetbids.com/portal/portal.cfm?CompanyID=33077&BidID=43459>

Thanks!
Jennifer McCoy
Purchasing Manager

Attachments

File Title	File Name	Status
Notice of Intent to Award	Intent-to-Award Online Notification.pdf	On Server



**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Rochelle Clayton, Interim City Manager
Jennifer McCoy, Purchasing Manager

MEETING DATE: April 10, 2018

SUBJECT: Resolution 2018-46, authorizing the Interim City Manager to Execute a Professional Services Agreement with BKD, LLP to perform an Audit of the Electric Utility and Billing Departments.

COMMITTEE REVIEW:

The Budget and Finance Committee reviewed the Draft RFPs that were released last year and recommended that Staff bring the RFP results (proposals) to Council for review.

RECOMMENDATION:

Approve Resolution 2018-46, authorizing the Interim City Manager to Execute a Professional Services Agreement with BKD, LLP in the amount of \$57,900.00 to perform an Audit of the Electric Utility and Billing Departments and authorize the necessary budget adjustments.

JUSTIFICATION:

The evaluation team has completed the final ranking phase of the three submitted proposals. The evaluation process included the review of proposals, interviews and reference checks. The proposals range in cost from \$32,200 to \$59,280 or possibly more as one proposal did not list how many hours they anticipate spending on the audit. The highest ranked firm is, BKD, LLP which is more expensive, however they have more City experience and assigned staff certified in fraud examining. The Purchasing Division was able to negotiate slightly lower rates with BKD, LLP for a not to exceed total of \$57,900.00. The firm Moss Adams, LLP, ranked 2nd does have more City

experience in California, though they did not list an estimate of hours in their cost proposal.

Presentation Evaluation Scores (includes Proposal Scores)
FINAL RANKING

VENDOR	BKD, LLP Score	Moss Adams LLP Score	Christy White Associates Score
PROPOSALS	400	300	240
	200	180	120
	380	240	240
SUBTOTAL	980	720	600
INTERVIEWS	407.5	452.5	432.5
	430	475	395
	425	442.5	365
SUBTOTAL	1262.5	1370	1192.5
GRAND TOTAL	2242.5	2090	1792.5
RANK	1	2	3

BACKGROUND:

Staff presented this to Council on February 27, 2018 and received direction to proceed with the interview and evaluation process.

The City’s external auditors, Lance Soll & Lunghard, explained to Council that their firm could not perform a forensic audit as they do not have the certified staff for that type of an audit and they further explained that it is expensive for such an audit. With that information, Council gave direction to release an RFP for an Internal Audit of the Electric Utility by a firm certified in fraud examining, and to bring back results before proceeding to determine how costly the audit shall be.

OPTIONS:

1. Approve Resolution 2018-46, authorizing the Interim City Manager to execute an agreement with BKD, LLP.
2. Provide alternative direction to staff.

FISCAL IMPACT:

\$57,900.00 to the Electric Fund.

ATTACHMENTS:

1. RFP 17-105 Bid Summary
2. Proposals received by Christy White Associates, Moss Adams, LLP, and BKD, LLP.
3. Resolution 2018-46
4. Draft Agreement

Approved by:



Rochelle Clayton, Interim City Manager

ATTACHMENT 1

RFP 17-105 Bid Summary

Bid Detail**Bid Information**

Project Title Internal Audit Services
Invitation No. 17-105
Bid Posting Date January 2, 2018 8:25 AM (Pacific)
Project Stage Award Pending
Bid Due Date January 26, 2018 10:00 AM (Pacific)
Response Format Electronic only
Link to Project on Public Site <https://www.planetbids.com/portal/portal.cfm?CompanyID=33077&BidID=44751>
Reference ID C00389
Project Type RFP (Request For Proposal)
Response Types Line Item, Response File, General Attachments
Type of Award Lump Sum
Categories 932035 - FINANCIAL SERVICES: AUDITING
 987001 - AUDIT SERVICES: ANNUAL AUDITS

License Requirements

Department Administrative Services Department
Address 99 E. Ramsey St., Banning, California
County Riverside
Bid Valid 180 Days

Liquidated Damages

Target Bid Amount \$0.00

Estimated Bid Value

Start/Delivery Date Based upon PO/Contract Approval
Project Duration Project Completion
Prevailing Wage No
Cooperative Bid No
Piggy-backable No

eBid Notes Electronic Bids shall be submitted via the City's secure online bidding system. All required sections of the Bid must be submitted via the website. Bidder is solely responsible for "on time" submission of their electronic bid. Bid attachment documents shall be signed in ink and included with the electronic bid submission as a general attachment.

Preferences Local - Local Business
Restriction Type None
Restricted To

Bid Bond Information

Bid 0.0%
Performance 0.0%
Payment 0.0%

Pre-Bid Meeting Information

Pre-Bid Meeting No

Online Q&A

Online Q&A Yes
Q&A Cutoff Date January 16, 2018 3:00 PM (Pacific)

Contact Information

Contact Info Jennifer McCoy - 951-922-3121
 jmccoy@ci.banning.ca.us
Bids to
Owner's Agent

Bid Detail

Description

Scope of Services The City is requesting proposals from qualified firms of Certified Public Accountants to perform internal audits, with demonstrated experience in reviewing of organization structure, practices, processes, systems and tools used by Utility Billing, Collections and Cash Handling procedures. Examples of audits that will be performed are, but not limited to, operational audits, internal control reviews and audits designed to detect potential fraud or malfeasance.

- Other Details** Attachments:
1. Notice to Bidders
 2. Bid Specifications (Proposal must be submitted online with your eBid)
 3. Ex Parte Communications Certificate (Submit with eBid)
 4. Price Proposal (Online Rate Sheet completed with eBid)
 5. Disclosure of Government Positions (Submit with eBid)
 6. Disqualifications Questionnaire (Submit with eBid)
 7. Professional Services Agreement Sample

Notes E-Bids are sealed and cannot be viewed by the City until the closing date and time. If you need to withdraw your bid, you may do so any time before the bid deadline, by going back into the system and selecting "Withdraw".

Local Programs & Policies

Special Notices

Downloadable Files

File Title	File Name	File Size	On Server	Uploaded Date	Visible
RFP 17-105 - Notice to Bidders	RFP 17-105 Internal Audit Services Notice to Bidders.pdf	210.6 kb	On Server	12/20/2017	Yes
RFP 17-105 Bid Specifications	RFP 17-105 Internal Audit Services.pdf	502.3 kb	On Server	12/20/2017	No
Disclosure of Government Positions	Disclosure of Government Positions.pdf	4.2 kb	On Server	12/20/2017	Yes
Disqualifications Questionnaire	Disqualifications Questionnaire.pdf	5.2 kb	On Server	12/20/2017	Yes
Professional Services Agreement Sample	Professional Services Agreement Template 11-17-17.pdf	273.3 kb	On Server	12/20/2017	Yes
Ex Parte Communications Certificate	Ex Parte Communications Certificate.pdf	104.2 kb	On Server	12/20/2017	Yes

Download File Fee \$0.00

Hard Copy Plans

Title/Description	Receive From	Plan Fee	Mailing Fee	Refund
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Line Items

Type	Item Code	UOM	Qty	Ref	MFR	Model#	Brand Req	Brand	Delivery Loc
Partners									
1	Standard Rate	Hourly	1						
2	Overtime Rate	Hourly	1						
Managers									
3	Standard Rate	Hourly	1						
4	Overtime Rate	Hourly	1						
Supervisory Staff									
5	Standard Rate	Hourly	1						
6	Overtime Rate	Hourly	1						
Staff									
7	Standard Rate	Hourly	1						
8	Overtime Rate	Hourly	1						
Additional Fees									
9	Transportation	Per Mile	1						
10	Other (Specify in Comments)	Each	1						
11	Other (Specify in Comments)	Each	1						
12	Other (Specify in Comments)	Each	1						

Vendor Notifications

500 external vendors notified through BidBroadcast

6 City of Banning vendors notified

Notified Vendors on January 2, 2018

Using Criteria Category:

932035 - FINANCIAL SERVICES: AUDITING
987001 - AUDIT SERVICES: ANNUAL AUDITS

Eadie and Payne, LLP (547709)
1839 W. Redlands Blvd.
Redlands, null 92373
United States

Contact: Eden Casareno
Phone: 909-793-2406 ext. 122
Fax: 909-792-3516
Email: rfp@eadiepaynellp.com

National Elevator Inspection Services, Inc.
(550367)
11973 Westline Industrial Drive
Suite 100
St. Louis, null 63146
United States

Contact: Angela Malone
Phone: 314-862-2611
Fax: 314-862-2397
Email: angela.malone@us.bureauveritas.com

NSF International (527348)
789 N Dixboro Road
Ann Arbor, null 48105
United States

Contact: Daniel Freeman
Phone: 734-214-6228
Fax: 734-827-7102
Email: dfreeman@nsf.org

Thomas Harder & Co. Groundwater Consulting (546255)
1260 N. Hancock St.
Suite 109
Anaheim, null 92807
United States

Contact: Thomas Harder
Phone: 714-779-3875
Fax:
Email: tharder@thomashardercompany.com

UTILITY COST MANAGEMENT LLC
(569166)
1100 W. SHAW AVENUE
SUITE 126
FRESNO, null 93711
United States

Contact: CHRIS WIEHL
Phone: 559-261-9237
Fax: 559-261-9231
Email: CW@UTILITYCOSTMANAGEMENT.COM

Willdan Financial Services (573011)
27368 Via Indsutria
Suite 200
Temecula, null 92590
United States

Contact: Rebekah Smith
Phone: 951-587-3500
Fax:
Email: RSmith@Willdan.com

CABE

Notified Vendors on January 17, 2018

Using Criteria Category:

932035 - FINANCIAL SERVICES: AUDITING
987001 - AUDIT SERVICES: ANNUAL AUDITS

Notified Vendors on January 19, 2018

Using Criteria Category:

932035 - FINANCIAL SERVICES: AUDITING
987001 - AUDIT SERVICES: ANNUAL AUDITS

Prospective Bidders

21 Prospective Bidders

Vendor	Contact	Vendor Type	Pre-Bid	Status
North American Procurement Council PO Box 40445 Grand Junction, null 81504 United States	Contact: Lyra De Asis Phone: 302-450-1923 Fax: Email: lyra@napc.me			Bidder
VAVRINEK, TRINE, DAY & CO., LLP 10681 FOOTHILL BLVD., SUITE 300 RANCHO CUCAMONGA, null 91730 United States	Contact: ROGER ALFARO Phone: 909-466-4410 Fax: Email: RALFARO@VTDCPA.COM			Bidder
Patel & Associates, LLP 266 17th Street Suite 200 Oakland, null 94612 United States	Contact: Sanwar Harshwal Phone: 510-452-5051 Fax: Email: sharshwal@patelcpa.com			Bidder
BCA Watson Rice LLP 21250 Hawthorne Blvd. Suite 150 Torrance, null 90503 United States	Contact: Thomas Kelly Phone: 310-792-4640 ext. 111 Fax: Email: tkelly@bcawr.com			Bidder
Onvia, Inc. 509 Olive Way Seattle, null 98101 United States	Contact: Source Management Phone: 206-373-9500 Fax: Email: sourcemanagement2@onvia.com			Bidder
SevenOutsource 113 Barksdale Professional Center Newark, null 19711 United States	Contact: Steve Walse Phone: 315-308-7852 Fax: Email: rfpalerts@gmail.com			Bidder
Moss Adams LLP 999 3rd Ave, Suite 2800 Seattle, null 98104 United States	Contact: Mark Steranka Phone: 206-302-6322 Fax: Email: maas.sales@mossadams.com			Bidder
PV Inc 4622 Cedar Avenue Wilmington, null 28403 United States	Contact: Bid Clerk Phone: 800-746-9554 Fax: 800-746-8307 Email: shanti@prime-vendor.com			Bidder
CliftonLarsonAllen LLP 2210 E Route 66 Glendora, null 91740 United States	Contact: Leticia Calderon Phone: 626-857-7300 Fax: Email: leticia.calderon@claconnect.com			Bidder
Davis Farr LLP 2301 Dupont Drive Suite 200 Irvine, null 92612 United States	Contact: Bid Clerk Phone: 949-474-2020 Fax: Email: bvolden@davisfarr.com			Bidder
Citygate Associates, LLC 2250 East Bidwell Street Folsom, null 95630 United States	Contact: David DeRoos Phone: 916-458-5100 ext. 100 Fax: Email: admin@citygateassociates.com			Bidder
Macias Gini & O'Connell LLP 3000 S St., Ste. 300 Sacramento, null 95816 United States	Contact: Linda Martin Phone: 916-928-4600 Fax: Email: lmartin@mgocpa.com			Non-Bidder, no communicati ons
Christy White Associates 348 Olive Street San Diego , null 92103 United States	Contact: Heather Rubio Phone: 619-270-8222 Fax: Email: Hrubio@christywhite.com			Bidder
Rahban CPA & Consulting Inc 1070 Casiano Road Los Angeles, null 90049 United States	Contact: sharon rahban navizadeh Phone: 310-801-4588 Fax: Email: srahban@rahbancpa.com	WBE		Bidder
Sjoberg Evashenk Consulting 455 Capitol Mall, Suite 700 Sacramento, null 95819 United States	Contact: George Skiles Phone: 916-443-1300 Fax: Email: rfp@secteam.com			Bidder

Prospective Bidders

<p>BKD, LLP 1801 California Street Denver, null 80202 United States</p>	<p>Contact: Adam Rouse Phone: 303-861-4545 Fax: 303-832-5705 Email: acrouse@bkd.com</p>	<p>Bidder</p>
<p>The Pun Group, LLP 200 E. Sandpointe Ave Santa Ana, null 92707 United States</p>	<p>Contact: Kenneth H. Pun Phone: 949-777-8800 Fax: Email: info@pungroup.com</p>	<p>Bidder</p>
<p>Troy & Banks, Inc. 2216 Kensington Avenue Buffalo, null 14226 United States</p>	<p>Contact: Thomas Ranallo Phone: 716-839-4402 Fax: 716-839-4452 Email: tranallo@troybanks.com</p>	<p>Bidder</p>
<p>Rogers, Anderson, Malody & Scott, LLP 738 E Carnegie Drive, Suite 100 San Bernardino, null 92408 United States</p>	<p>Contact: Terry Shea Phone: 909-889-0871 Fax: Email: terry@ramscpa.net</p>	<p>WBE Bidder</p>
<p>HdL Software, LLC 160 Via Verde Drive Suite 150 San Dimas, null 91773 United States</p>	<p>Contact: George Bonnin Phone: 909-861-4335 Fax: Email: gbonnin@hdlcompaies.com</p>	<p>Bidder</p>
<p>Harshwal & Company, LLP 266 17th Street Suite 200 Oakland, null 94612 United States</p>	<p>Contact: Sanwar Harshwal Phone: 510-452-5051 Fax: Email: amita.jangid@harshwal.com</p>	<p>Bidder</p>

Q & A

Vendor	Submit Date	Question	Answer	Release Date	Set
BKD, LLP	01/09/2018 10:30 AM (Pacific)	What is prompting this audit?	Public request by rate payers within the service area.	01/19/2018 12:45 PM (Pacific)	1.1
BKD, LLP	01/09/2018 10:30 AM (Pacific)	Is usage data obtained by a 3rd party? If so, please explain.	No, we have City meter reading staff to obtain usage data.	01/19/2018 12:45 PM (Pacific)	1.2
BKD, LLP	01/09/2018 10:30 AM (Pacific)	Please provide a listing of each 3rd party utilized by the Utility Division, including a brief description of services they provide. (examples of 3rd parties include: billing company, ACH payment processor, billing software/vendor, paper printing company for statements, website payment processor, etc.)	BILLING PROCESSES: Billing software - Superior, formerly SunGard Naviline; Meter reading collection device software (hand-helds) - Itron; Bill printing/mailling - Infosend; Receipt/door hanger/envelope printing - Lithopass, Collection account processing - American Capital PAYMENT PROCESSING: On-line payment processing program - Click 2 Gov; ACH/electronic payment/mailed payment processing & returned check processing - Wells Fargo; Credit card and check image processing - Creditron	01/19/2018 12:45 PM (Pacific)	1.3
BKD, LLP	01/09/2018 10:30 AM (Pacific)	Does the City have access to assessor data?	Access is limited to what is available to the public.	01/19/2018 12:45 PM (Pacific)	1.4
BKD, LLP	01/09/2018 10:30 AM (Pacific)	Does the City have a set budget for this project?	No.	01/19/2018 12:45 PM (Pacific)	1.5
BKD, LLP	01/09/2018 10:30 AM (Pacific)	What accounting or records system is utilized by the Utility Division? Will electronic records be available?	Superion, formerly SunGard Naviline is the Utility Billing software system. Electronic records can be made available in text file format or PDF.	01/19/2018 12:45 PM (Pacific)	1.6
BKD, LLP	01/09/2018 10:30 AM (Pacific)	Will preference be given to local firms?	When all other factors are determined to be equal, preference shall be given to firms having a bona-fide place of business within the City of Banning. Local Vendor Purchasing Preference is the practice of procurement from certain suppliers/contractors because they are also local taxpayers. Local preference is desirable because it stimulates the local economy. All orders/contracts are awarded based on quality, previous performance, ability to meet the contract requirements, availability of service and parts, delivery schedule, and payment terms/discounts and all of the factors particular to the award. When all these factors are equal except price, a preference will be given to local vendors equal to 5% of the quoted price.	01/19/2018 12:45 PM (Pacific)	1.7
BKD, LLP	01/09/2018 10:30 AM (Pacific)	To compare the amount of electricity purchased compared to the amount of electric sold, we will need access to all billing, usage data, city usage, and non-billed data. Will that data be readily accessible in an electronic format?	The data shall be readily available and in electronic format, however some items may be accessible in an electronic format limited to PDF.	01/19/2018 12:45 PM (Pacific)	1.8
BKD, LLP	01/10/2018 11:30 AM (Pacific)	What billing and accounting software programs are you using? Can data be easily extracted?	Superion, formerly SunGard Naviline is the (Utility Billing) software system. Electronic records can be made available or extracted in text file format.	01/19/2018 12:45 PM (Pacific)	1.9

Q & A

Vendor	Submit Date	Question	Answer	Release Date	Set
Harshwal & Company, LLP	01/10/2018 11:24 PM (Pacific)	<ol style="list-style-type: none"> 1. Please provide the prior year fees with details on the fees for the internal audit services? 2. Who is the current provider of internal audit services? 3. How long has the current auditor served the City? 4. Is the current auditor allowed to participate in the bid? 5. How many staff were on - site performing the fieldwork? 6. What is the budget for this year internal audit services? 7. For which fiscal year internal audit services need to be perform? 8. Is there any option to extend the internal audit services for additional years? If yes, for how many years? 9. Please mention the Attorney name with the title? 10. Can you please provide the Price Proposal Sheet or link where we can get this Price Proposal Sheet? 	<ol style="list-style-type: none"> 1. The City does not currently or historically have an internal audit service firm so there is no data on fees. 2. The current annual financial statement audit firm is Lance, Soll & Lunghard CPAs, LLP. 3. Since 2002 with multiple managing partners (and 2 RFP processes). 4. Yes. 5. Three on-site for annual financial statement audit. 6. No budget established for internal audit. 7. This internal audit is for 2 previous fiscal years. 8. No, this is for one specific assignment of an Electric Utility internal audit. 9. The City's Attorney is Kevin Ennis from Richards, Watson & Gershon. 10. The Price Proposal Sheet is within the Planet Bids portal under the Line Items tab: https://www.planetbids.com/portal/portal.cfm?CompanyID=33077&BidID=44751 	01/19/2018 12:45 PM (Pacific)	1.10
BKD, LLP	01/12/2018 3:08 PM (Pacific)	RFP states there are 31 billing groups. Please clarify if this represents 31 different billing rates or this represents 31 different billing dates (cycles).	This represents 31 billing cycle routes for which the meters are read.	01/19/2018 12:45 PM (Pacific)	1.11
BKD, LLP	01/12/2018 3:08 PM (Pacific)	RFP states the City of Banning has approximately 13,000 accounts. Please clarify if this is the total across all utilities (electric, water, sewer, and waste management). Please specify the number of accounts by accounts type (i.e. 12,000 electric accounts, 2,000 water accounts, etc.)	There are approximately 11,000 Water/Wastewater accounts and 12,500 Electric accounts.	01/19/2018 12:45 PM (Pacific)	1.12
BKD, LLP	01/12/2018 3:08 PM (Pacific)	Clarify if this project is specifically tailored around a review of the electric accounts or all utilities (electric, water, sewer, waste water).	This is tailored around the electric accounts, however billing is combined for the accounts, which means one bill contains a total comprised of the electric meter read billing, the water meter read billing, and the wastewater monthly charge (all separated on the bill).	01/19/2018 12:45 PM (Pacific)	1.13
BKD, LLP	01/12/2018 3:08 PM (Pacific)	How many electric (power) suppliers will need to be reviewed during the course of this engagement?	Approximately 10 power suppliers.	01/19/2018 12:45 PM (Pacific)	1.14
BKD, LLP	01/12/2018 3:08 PM (Pacific)	Scope item #3 says to identify all dwellings that receive utilities. Confirm which utilities you are referring to specifically. Does the City have adequate records of each dwelling?	The utilities referred to are electric, water and wastewater; an example is that there has been discovery of an account with all three utilities which had a water meter exchange, and after the exchange, the system did not capture the new water meter on the monthly bill and they were only charged for electric and wastewater. The City does have a list of all parcels in the City to compare against utility bill account addresses.	01/19/2018 12:45 PM (Pacific)	1.15
BKD, LLP	01/12/2018 3:08 PM (Pacific)	How many different electric rate structures are currently in place?	7 rate structures including: Residential, Small General Service (Non-Residential), General & Industrial, Large General and Industrial (TOU), Unmetered Street Lighting, Outdoor (Security) Lighting, and Municipal.	01/19/2018 12:45 PM (Pacific)	1.16

Q & A

Vendor	Submit Date	Question	Answer	Release Date	Set
BKD, LLP	01/12/2018 3:08 PM (Pacific)	Scope item #5 asks for vendor to verify if the electric utility usage was overridden. Does the billing software capture this data?	Yes, but the software does not generate an exception (error) for an override.	01/19/2018 12:45 PM (Pacific)	1.17
Moss Adams LLP	01/16/2018 8:39 AM (Pacific)	What is the expected timing of the work and the term for this resulting agreement?	The anticipated timing to begin work would be within 1 month of contract award and no definitive expectation for the timing of completion but anticipate the audit to be complete in 3 months and not to exceed 6 months, and the contract term not to exceed one year.	01/19/2018 12:45 PM (Pacific)	1.18

Addenda

Bid Results

3 Bid Results

Bidder Details

Vendor Name Christy White Associates
Address 348 Olive Street
 San Diego , null 92103
 United States
Respondee Heather Rubio
Respondee Title Principal
Phone 619-270-8222 Ext.
Email Hrubio@christywhite.com
Vendor Type

Bid Detail

Bid Format Electronic
Submitted January 26, 2018 8:16:37 AM (Pacific)
Delivery Method online
Bid Responsive Yes
Bid Status Submitted
Confirmation # 128909
Ranking 3

Respondee Comment

Buyer Comment

Attachments

File Title	File Name	File Type
Response File	City of Banning Proposal (003) (002).pdf	Response File
Ex Parte Communications Certificate	Ex Parte Communications Certificate.pdf	Ex Parte Communications Certificate
Disclosure of Government Positions	Disclosure of Government Positions.pdf	Disclosure of Government Positions
Disqualifications Questionnaire	Disqualifications Questionnaire.pdf	Disqualifications Questionnaire

Line Items

Discount Terms no discount

Type	Item Code	UOM	Qty	Unit Price	Line Total	Discount	Comment
	Partners						
1	Standard Rate	Hourly	1	\$13,750.0000	\$13,750.0000	\$13,750.0000	This is \$250 at 55 hours = \$13,750
2	Overtime Rate	Hourly	1	0	0	0	
				Subtotal	\$13,750.0000	\$13,750.0000	

Managers

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Discount	Comment
3	Standard Rate	Hourly	1	\$9,350.0000	\$9,350.0000	\$9,350.0000	This is \$170 at 55 hours = \$9,350
4	Overtime Rate	Hourly	1	0	0	0	
				Subtotal	\$9,350.0000	\$9,350.0000	
5	Supervisory Staff Standard Rate	Hourly	1	\$4,900.0000	\$4,900.0000	\$4,900.0000	This is at \$140 at 35 hours = \$4,900
6	Overtime Rate	Hourly	1	0	0	0	
				Subtotal	\$4,900.0000	\$4,900.0000	
7	Staff Standard Rate	Hourly	1	\$4,200.0000	\$4,200.0000	\$4,200.0000	This is at \$120 at 35 hours \$4,200
8	Overtime Rate	Hourly	1	0	0	0	
				Subtotal	\$4,200.0000	\$4,200.0000	
	Additional Fees						
9	Transportation	Per Mile	1	0	0	0	
10	Other (Specify in Comments)	Each	1	0	0	0	
11	Other (Specify in Comments)	Each	1	0	0	0	
12	Other (Specify in Comments)	Each	1	0	0	0	
				Subtotal	0	0	
				Total	\$32,200.0000	\$32,200.0000	

Bid Results

Bidder Details

Vendor Name BKD, LLP
Address 1801 California Street
 Denver, null 80202
 United States
Respondee Adam Rouse
Respondee Title Managing Consultant
Phone 303-861-4545 Ext.
Email acrouse@bkd.com
Vendor Type

Bid Detail

Bid Format Electronic
Submitted January 24, 2018 1:39:06 PM (Pacific)
Delivery Method
Bid Responsive Yes
Bid Status Submitted
Confirmation # 128768
Ranking 1

Respondee Comment

Buyer Comment

Attachments

File Title	File Name	File Type
BKD RFP Document	BKD LLP Proposal for the City of Banning .pdf	Response File
Ex Parte	Ex Parte Communications.pdf	Ex Parte Communications Certificate
Disclosure	Disclosure of Gov Positions.pdf	Disclosure of Government Positions
Disqualification Questionnaire	Disqualification Questionnaire.pdf	Disqualifications Questionnaire

Line Items

Type	Item Code	UOM	Qty	Unit Price	Line Total	Discount	Comment
Discount Terms no discount							
Partners							
1	Standard Rate	Hourly	1	\$160.0000	\$160.0000	\$160.0000	
2	Overtime Rate	Hourly	1	\$160.0000	\$160.0000	\$160.0000	
					Subtotal	\$320.0000	
Managers							
3	Standard Rate	Hourly	1	\$160.0000	\$160.0000	\$160.0000	

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Discount	Comment
4	Overtime Rate	Hourly	1	\$160.0000	\$160.0000	\$160.0000	
				Subtotal	\$320.0000	\$320.0000	
	Supervisory Staff						
5	Standard Rate	Hourly	1	\$160.0000	\$160.0000	\$160.0000	
6	Overtime Rate	Hourly	1	\$160.0000	\$160.0000	\$160.0000	
				Subtotal	\$320.0000	\$320.0000	
	Staff						
7	Standard Rate	Hourly	1	\$160.0000	\$160.0000	\$160.0000	
8	Overtime Rate	Hourly	1	\$160.0000	\$160.0000	\$160.0000	
				Subtotal	\$320.0000	\$320.0000	
	Additional Fees						
9	Transportation	Per Mile	1	0	0	0	
10	Other (Specify in Comments)	Each	1	\$3,600.0000	\$3,600.0000	\$3,600.0000	Travel estimate. Every effort will be made to keep travel costs to a minimum.
11	Other (Specify in Comments)	Each	1	0	0	0	
12	Other (Specify in Comments)	Each	1	0	0	0	
				Subtotal	\$3,600.0000	\$3,600.0000	
				Total	\$4,880.0000	\$4,880.0000	

Bid Results

Bidder Details

Vendor Name Moss Adams LLP
Address 999 3rd Ave, Suite 2800
 Seattle, null 98104
 United States
Respondee Mark Steranka
Respondee Title Partner
Phone 206-302-6409 Ext.
Email mark.steranka@mossadams.com
Vendor Type

Bid Detail

Bid Format Electronic
Submitted January 26, 2018 9:10:34 AM (Pacific)
Delivery Method electronic
Bid Responsive Yes
Bid Status Submitted
Confirmation # 128935
Ranking 2

Respondee Comment

Please note that in the Line Items section, we have provided a sample of each potential expense and that total expenses typically equal 10% of our professional fees, which will be negotiated with the City if we are awarded this work.

Buyer Comment

Attachments

File Title	File Name	File Type
Moss Adams Proposal for RFP 17-105 for Internal Audit Services 01-26-2018	Moss Adams Proposal for RFP 17-105 for Internal Audit Services 01-26-2018.pdf	Response File
Moss Adams RFP 17-105 Ex Parte Communications Certificate 01-26-2018	Moss Adams RFP 17-105 Ex Parte Communications Certificate.pdf	Ex Parte Communications Certificate
Moss Adams RFP 17-105 Disclosure of Government Positions 01-26-2018	Moss Adams RFP 17-105 Disclosure of Government Positions.pdf	Disclosure of Government Positions
Moss Adams RFP 17-105 Disqualifications Questionnaire 01-26-2018	Moss Adams RFP 17-105 Disqualifications Questionnaire.pdf	Disqualifications Questionnaire

Line Items

Discount Terms		no discount					
Type	Item Code	UOM	Qty	Unit Price	Line Total	Discount	Comment
	Partners						
1	Standard Rate	Hourly	1	\$350.0000	\$350.0000	\$350.0000	
2	Overtime Rate	Hourly	1	\$350.0000	\$350.0000	\$350.0000	
				Subtotal	\$700.0000	\$700.0000	
	Managers						

Bid Results

Type	Item Code	UOM	Qty	Unit Price	Line Total	Discount	Comment
3	Standard Rate	Hourly	1	\$300.0000	\$300.0000	\$300.0000	
4	Overtime Rate	Hourly	1	\$300.0000	\$300.0000	\$300.0000	
				Subtotal	\$600.0000	\$600.0000	
	Supervisory Staff						
5	Standard Rate	Hourly	1	\$250.0000	\$250.0000	\$250.0000	
6	Overtime Rate	Hourly	1	\$250.0000	\$250.0000	\$250.0000	
				Subtotal	\$500.0000	\$500.0000	
	Staff						
7	Standard Rate	Hourly	1	\$200.0000	\$200.0000	\$200.0000	
8	Overtime Rate	Hourly	1	\$200.0000	\$200.0000	\$200.0000	
				Subtotal	\$400.0000	\$400.0000	
	Additional Fees						
9	Transportation	Per Mile	1	\$0.5450	\$0.5450	\$0.5450	
10	Other (Specify in Comments)	Each	1	\$300.0000	\$300.0000	\$300.0000	Airfare
11	Other (Specify in Comments)	Each	1	\$200.0000	\$200.0000	\$200.0000	Lodging; meal expenses will be per diem
12	Other (Specify in Comments)	Each	1	\$50.0000	\$50.0000	\$50.0000	Rental car
				Subtotal	\$550.5450	\$550.5450	
				Total	\$2,750.5450	\$2,750.5450	

Project Evaluation**Evaluators**

First Name	Last Name	Organization	Title	Phone	Email	Status
Stephen	Badgett	City of Banning	Interim Electric Utility Director	951-922-3265	sbadgett@ci.banning.ca.us	Active
Gina	Boehm	City of Banning	Customer Service Manager	951-922-3112	gboehm@ci.banning.ca.us	Active
Luis	Cardenas	City of Banning	Senior Civil Engineer	951-922-3143	lcardenas@ci.banning.ca.us	Active
Rochelle	Clayton	City of Banning	Deputy City Manager	951-922-3148	rclayton@ci.banning.ca.us	Active
Tom	Miller	City of Banning	Electric Utility Director	951-922-3265	tmiller@ci.banning.ca.us	Active
Jorge	Uribe	City of Banning	Buyer	951-922-3129	juribe@ci.banning.ca.us	Active

Meetings

No Meetings

Project Evaluation**Evaluator Forms**

File Title	File Name	File Size	Status	Uploaded Date	Uploaded By
IFB 17-105 Bid Result Analysis	Bid Result Analysis.pdf	383.8 kb	On Server	02/06/2018	McCoy, Jennifer
RFP 17-105 Interview Questions	RFP 17-105 Interview Questions.pdf	105.0 kb	Recalled	03/21/2018	McCoy, Jennifer
RFP 17-105 Interview Questions	RFP 17-105 Interview Questions.pdf	104.9 kb	On Server	03/23/2018	McCoy, Jennifer
Instructions for Evaluation Phase	02 Instructions to Evaluators Memo.pdf	87.0 kb	On Server	01/26/2018	McCoy, Jennifer
Committee Member Statement	03 EVALUATION COMMITTEE MEMBER STATEMENT.pdf	73.5 kb	On Server	01/26/2018	McCoy, Jennifer
Proposal Evaluation - Christy White	Evaluation - Christy White Proposal.pdf	9.8 mb	On Server	01/26/2018	McCoy, Jennifer
Proposal Evalutaion - BKD LLP	Evaluation - BKD LLP Proposal.pdf	1.1 mb	On Server	01/26/2018	McCoy, Jennifer
Proposal Evaluation - Moss Adams	Evaluation - Moss Adams Proposal.pdf	660.2 kb	On Server	01/26/2018	McCoy, Jennifer
Evaluator Instructions - PlanetBids	Evaluator Instructions_4_13_15.pdf	252.8 kb	On Server	01/26/2018	McCoy, Jennifer

Evaluator Attachments

File Title	File Name	File Size	Status	Uploaded Date	Uploaded By
Member Statement TM	Member Statement TM.pdf	308.4 kb	On Server	03/28/2018	McCoy, Jennifer
Member Statement JU	Member Statement JU.pdf	288.8 kb	On Server	03/28/2018	McCoy, Jennifer
pdf	RFP 17 - 105 SB Mem State.pdf	398.3 kb	On Server	02/01/2018	Badgett, Stephen
Member Statement_LuisCardenas	MemberStatement_LC.pdf	371.4 kb	On Server	03/21/2018	Cardenas, Luis
Eval committee statement	Member Statement.pdf	359.1 kb	On Server	03/21/2018	Boehm, Gina

Project Evaluation

Technical Qualifications

Vendor Name	Disclosure of Govt. Positions	Disqualification Questionnaire	Ex Parte Communications Cert.	Online Price Sheet Completed	Proposal Format Guidelines
	Signed and submitted form.	Signed and submitted form.	Signed and submitted form.		Vendor submitted a proposal containing all requested areas. 1. Vendor Cover Letter 2. Background and Project Summary Section 3. Methodology Section 4. Staffing 5. Qualifications (to included references) 6. Financial Capacity
	mandatory	mandatory	mandatory	mandatory	mandatory
BKD, LLP	Pass	Pass	Pass	Pass	Pass
Christy White Associates	Pass	Pass	Pass	Pass	Pass
Moss Adams LLP	Pass	Pass	Pass	Pass	Pass

Vendor Name	Certified Fraud Examiner	Overall
	Requested that firm have a CFE on staff. not mandatory	
BKD, LLP	Pass	Pass
Christy White Associates	Pass	Pass
Moss Adams LLP	Pass	Pass

Project Evaluation

Project Evaluation Notes

No Evaluator Attachments

Project Evaluation**Project Evaluation Email****Email - Project Evaluation****Date Sent** 01/26/2018**To** Stephen Badgett (sbadgett@ci.banning.ca.us), Gina Boehm (gboehm@ci.banning.ca.us), Rochelle Clayton (rclayton@ci.banning.ca.us)**Subject** RFP #17-105 - Internal Audit Services Evaluation Phase (Due 02/02/18)

Message This is a notification pertaining to **Internal Audit Services (17-105)**, with a bid due date of January 26, 2018 10:00 AM (Pacific). You have been chosen for the evaluations of the vendor proposals submitted through our eBid system Planet Bids. Uploaded under the Documents tab are the evaluator instructions, PlanetBid's instructions, Member Statement and the vendors proposals. Please be sure to sign the Member Statement and upload this with your final evaluation. For each criterion, enter the number in the score box based on the following scale; 0 - (Zero) Criterion was not address at all. 1 - Unacceptable 2 - Below Average 3 - Average 4 - Above Average 5 - Exceptional You should evaluate the proposal independently and each proposal is to be evaluated against RFP requirements. If you need further clarification, do not contact the proposer but email your questions to me instead. Please submit all correspondence through the online system. After your review, please follow the evaluation instructions and submit your final scoring to me by Friday, February 2, 2018 so I can summarize your scores and comments. An evaluation team meeting will be offered, so we can discuss the scores given to each proposal, develop a team score, determine the proposers who will move onto the Interview phase of this process and make changes to the Interview questions if deemed necessary. If you have any questions regarding this process, please call me at (951) 922-3121. Thank you for your participation and cooperation in this project. Jennifer McCoy Purchasing Manager

Attachments

No Attachments

Email - Project Evaluation**Date Sent** 02/02/2018**To** Stephen Badgett (sbadgett@ci.banning.ca.us), Gina Boehm (gboehm@ci.banning.ca.us), Rochelle Clayton (rclayton@ci.banning.ca.us)**Subject** RFP Evaluation

Message This is a notification pertaining to **Internal Audit Services (17-105)**, with a bid due date of January 26, 2018 10:00 AM (Pacific). Hi All, I've been notified that not all evaluators will be able to submit their evaluations until Monday, so I'm extending the deadline. Please get your responses to me by Tuesday, 02/06/18. Thanks, Jenn

Attachments

No Attachments

Email - Project Evaluation**Date Sent** 02/06/2018**To** Stephen Badgett (sbadgett@ci.banning.ca.us), Gina Boehm (gboehm@ci.banning.ca.us), Rochelle Clayton (rclayton@ci.banning.ca.us)**Subject** Pricing Bid Results

Message This is a notification pertaining to **Internal Audit Services (17-105)**, with a bid due date of January 26, 2018 10:00 AM (Pacific). Hi All, When initially setting up the evaluation criteria, I included the Price Comparison. The system won't allow you to save your results without completing the price scoring. To allow a fair review, I've added the price analysis within your Documents Tab. Please score this section with your initial review. Thanks, Jenn

Attachments

File Title	File Name	Status
IFB 17-105 Bid Results Analysis	Bid Result Analysis.pdf	On Server

Project Evaluation

Email - Project Evaluation

Date Sent 02/21/2018
To Stephen Badgett (sbadgett@ci.banning.ca.us), Gina Boehm (gboehm@ci.banning.ca.us), Rochelle Clayton (rclayton@ci.banning.ca.us)
Subject Member Statements
Message This is a notification pertaining to **Internal Audit Services (17-105)**, with a bid due date of January 26, 2018 10:00 AM (Pacific).Hi Gina and Rochelle,Please upload your signed member statements for this RFP as soon as possible.Thanks,Jenn

Attachments

No Attachments

Email - Project Evaluation

Date Sent 02/28/2018
To Stephen Badgett (sbadgett@ci.banning.ca.us), Gina Boehm (gboehm@ci.banning.ca.us), Rochelle Clayton (rclayton@ci.banning.ca.us)
Subject Interviews
Message This is a notification pertaining to **Internal Audit Services (17-105)**, with a bid due date of January 26, 2018 10:00 AM (Pacific).Hi All,The City Council approved staff to move forward with the evaluation process for the Internal Audit Services RFP. I'm reaching out to you to determine the Interview Schedule. I'd like to schedule for the week of March 12th.Please let me know your availability.Thanks,Jenn

Attachments

No Attachments

Email - Project Evaluation

Date Sent 03/21/2018
To Gina Boehm (gboehm@ci.banning.ca.us), Luis Cardenas (lcardenas@ci.banning.ca.us), Tom Miller (tmiller@ci.banning.ca.us)
Subject RFP #17-105 Internal Audit Services Interviews
Message This is a notification pertaining to **Internal Audit Services (17-105)**, with a bid due date of January 26, 2018 10:00 AM (Pacific).An invitation has been submitted to the vendors for the interview process for 03/28/18 between 9:00 a.m. - 4:00 p.m. I will be reaching out to them to confirm times. I will send an invite to you once the times are confirmed. Attached are the questions to be asked during each meeting.If you haven't submitted your Member Statement, please do so prior to the meeting.Thanks,Jenn

Attachments

File Title	File Name	Status
RFP 17-105 Interview Questions	RFP 17-105 Interview Questions.pdf	On Server
Member Statement	03 EVALUATION COMMITTEE MEMBER STATEMENT.doc	On Server

Email - Project Evaluation

Date Sent 03/23/2018
To Luis Cardenas (lcardenas@ci.banning.ca.us), Tom Miller (tmiller@ci.banning.ca.us), Jorge Uribe (juribe@ci.banning.ca.us)
Subject Member Statement
Message This is a notification pertaining to **Internal Audit Services (17-105)**, with a bid due date of January 26, 2018 10:00 AM (Pacific).Hi Tom and Jorge,Attached is the Member Statement that needs to be signed and uploaded before Wednesday's Interviews. Please let me know if you have any questions.Thanks,Jenn

Attachments

File Title	File Name	Status
Presentation Member Statement	03 EVALUATION COMMITTEE MEMBER STATEMENT.doc	On Server

Award

Award Status Award Pending

Award Date 04/04/2018

Type of Award Lump Sum

Awarded To

Type	Item Code	UOM	Qty
	Partners		
1	Standard Rate	Hourly	1
2	Overtime Rate	Hourly	1
	Managers		
3	Standard Rate	Hourly	1
4	Overtime Rate	Hourly	1
	Supervisory Staff		
5	Standard Rate	Hourly	1
6	Overtime Rate	Hourly	1
	Staff		
7	Standard Rate	Hourly	1
8	Overtime Rate	Hourly	1
	Additional Fees		
9	Transportation	Per Mile	1
10	Other (Specify in Comments)	Each	1
11	Other (Specify in Comments)	Each	1
12	Other (Specify in Comments)	Each	1

Email History

Email - Q&A Notice

Date Sent 01/19/2018

To Onvia, Inc. (sourcemanagement2@onvia.com), SevenOutsource (rfpalerts@gmail.com), Moss Adams LLP (maas.sales@mossadams.com), North American Procurement Council (lyra@napc.me), VAVRINEK, TRINE, DAY & CO., LLP (RALFARO@VTDCPA.COM), Patel & Associates, LLP (sharshwal@patelcpa.com), BCA Watson Rice LLP (tkelly@bcawr.com), PV Inc (shanti@prime-vendor.com), CliftonLarsonAllen LLP (leticia.calderon@claconnect.com), Davis Farr LLP (bvolden@davisfarr.com), Citygate Associates, LLC (admin@citygateassociates.com), Macias Gini & O'Connell LLP (Imartin@mgocpa.com), Christy White Associates (Hrubio@christywhite.com), Rahban CPA & Consulting Inc (srahban@rahbancpa.com), Sjoberg Evashenk Consulting (rfp@secteam.com), BKD, LLP (acrouse@bkd.com), The Pun Group, LLP (info@pungroup.com), Troy & Banks, Inc. (tranallo@troybanks.com), Rogers, Anderson, Malody & Scott, LLP (terry@ramscpa.net), HdL Software, LLC (gbonnin@hdlcompaies.com), Harshwal & Company, LLP (amita.jangid@harshwal.com)

Subject Q and A Set 1

Message Q & A Set 1

Attachments

No Attachments

Email - Bidder (custom)

Date Sent 03/21/2018

To Moss Adams LLP (mark.steranka@mossadams.com), BKD, LLP (acrouse@bkd.com), Christy White Associates (Hrubio@christywhite.com)

Subject RFP #17-105 Internal Audit Services Presentation/Interviews

Message This is a notification pertaining to **Internal Audit Services (17-105)**, with a bid due date of January 26, 2018 10:00 AM (Pacific).The City of Banning would like to invite your company to the Interview portion of the bid process for RFP #17-105 for Internal Audit Services. Interviews will take place on March 28, 2018, from 9:00 a.m. - 4:00 p.m. You will be contacted shortly to discuss the proposed time and give a brief overview of what to expect. Attached you will find the questions that will be asked during this process. This information is provided to assist you in the presentation preparation.We look forward to meeting with you.Jennifer McCoyPurchasing Manager951-922-3121

Attachments

File Title	File Name	Status
RFP 17-105 Interview Questions	RFP 17-105 Interview Questions.pdf	On Server

Bid Results for Project Internal Audit Services (17-105)
 Issued on 01/02/2018
 Bid Due on January 26, 2018 10:00 AM (Pacific)
 Exported on 01/26/2018

Line Totals (Unit Price * Quantity)

Item Num	Section	Description	Unit of Measure	Quantity	Moss Adams LLP - Unit Price	Moss Adams LLP - Line Total	Moss Adams LLP - Comment	BKD, LLP - Unit Price	BKD, LLP - Line Total	BKD, LLP - Comment	Christy White - Unit Price	Christy White - Line Total	Christy White - Comment
1	Partners	Standard Rate	Hourly	1	\$350.00	\$350.00		\$340.00	\$9,180.00	27 hours	\$250.00	\$13,750.00	This is \$250 at 55 hours = \$13,750
2	Partners	Overtime Rate	Hourly	1	\$350.00	\$350.00		\$0.00	\$0.00		\$0.00	\$0.00	
3	Managers	Standard Rate	Hourly	1	\$300.00	\$300.00		\$210.00	\$15,750.00	75 hours	\$170.00	\$9,350.00	This is \$170 at 55 hours = \$9,350
4	Managers	Overtime Rate	Hourly	1	\$300.00	\$300.00		\$0.00	\$0.00		\$0.00	\$0.00	
5	Supervisory Staff	Standard Rate	Hourly	1	\$250.00	\$250.00		\$125.00	\$12,500.00	100 hours	\$170.00	\$4,900.00	This is at \$140 at 35 hours = \$4,900
6	Supervisory Staff	Overtime Rate	Hourly	1	\$250.00	\$250.00		\$0.00	\$0.00		\$0.00	\$0.00	
7	Staff	Standard Rate	Hourly	1	\$200.00	\$200.00		\$125.00	\$18,250.00	146 hours	\$120.00	\$4,200.00	This is at \$120 at 35 hours = \$4,200
8	Staff	Overtime Rate	Hourly	1	\$200.00	\$200.00		\$0.00	\$0.00		\$0.00	\$0.00	
9	Additional Fees	Transportation	Per Mile	1	\$0.55	\$0.55		\$0.00	\$0.00		\$0.00	\$0.00	
10	Additional Fees	Other (Specify in Comments)	Each	1	\$300.00	\$300.00	Airfare Lodging; meal expenses will be per diem	\$3,600.00	\$3,600.00	Travel estimate. Every effort will be made to keep travel costs to a minimum.	\$0.00	\$0.00	
11	Additional Fees	Other (Specify in Comments)	Each	1	\$200.00	\$200.00	dlem	\$0.00	\$0.00		\$0.00	\$0.00	
12	Additional Fees	Other (Specify in Comments)	Each	1	\$50.00	\$50.00	Rental car	\$0.00	\$0.00		\$0.00	\$0.00	
Total						\$2,750.55			\$59,280.00			\$32,200.00	

COMPARISON CHART

Schedules	4 Months 17.43 Weeks 122 Days	2 Months 8 Weeks 56 Days	3.5 Months 14.25 Weeks 100 Days
Hours	Not provided	348	180
Avg. Rate/Hour	\$ 275.00	\$ 200.00	\$ 177.50
Total Based on 8 Hours/Day/Proposed Days	\$ 268,400.00	\$ 89,600.00	\$ 142,000.00
Plus Add. Fees	\$ 550.55	\$ 3,600.00	\$ -
Total	\$ 268,950.55	\$ 93,200.00	\$ 142,000.00

Project Evaluator Ranking Report for Internal Audit Services (17-105)
 Issued on 01/02/2018
 Bid Due on January 26, 2018 10:00 AM (Pacific)
 Exported on 04/04/2018

Presentation Evaluation Scores (includes Proposal Scores)
FINAL RANKING

VENDOR	BKD, LLP Score	Moss Adams LLP Score	Christy White Associates Score
PROPOSALS	400	300	240
	200	180	120
	380	240	240
SUBTOTAL	980	720	600
INTERVIEWS	407.5	452.5	432.5
	430	475	395
	425	442.5	365
SUBTOTAL	1262.5	1370	1192.5
GRAND TOTAL	2242.5	2090	1792.5
RANK	1	2	3

Criterion	Detail	Vendor Name	Evaluator	Proposal Comments				
				Strengths	Weaknesses	Comment		
Qualifications of Entity and Key Personnel	Includes ability to provide the requested scope of services, the Proposer's financial capacity, recent experience conducting work of similar scope, complexity, and magnitude for other public agencies of similar size, references.	BKD, LLP	Evaluator 1	Over 250 Utility clients with Enterprise experience. Staff well qualified; knowledgeable in Muni governance.	Other than not being local, none.	348 hours ~ 2 month engagement.		
			Evaluator 2	Ability to provide the scope of services as requested by the RFP. Has extensive experience with government entities as well as utility auditing. Offered references from other utility audits.	Concern regarding document preparation time for City staff.	[no evaluator comment]		
			Evaluator 3	[no evaluator comment]	[no evaluator comment]	[no evaluator comment]		
		Christy White Associates	Evaluator 1	[no evaluator comment]	[no evaluator comment]	NO utility experience (CA or elsewhere). Personnel and firm strong in educational audits which are not enterprise based and very little customer billing.	[no evaluator comment]	
			Evaluator 2	Ability to provide scope of services for RFP noted. Firm has CFE on staff as well as ability to use software to reduce time in document preparation and also may assist in reducing City staff time in prep of documents.	Limited experience in City as well as utility auditing.	[no evaluator comment]		
			Evaluator 3	[no evaluator comment]	Past experience is for schools only	[no evaluator comment]		
		Moss Adams LLP	Evaluator 1	Some Muni experience. Use of on-line survey a plus.	Limited experience.	Four month engagement.		
			Evaluator 2	Has ability to provide the requested scope of work. Has extensive experience with city as well as other utilities in conducting audits.	[no evaluator comment]	[no evaluator comment]		
			Evaluator 3	[no evaluator comment]	[no evaluator comment]	[no evaluator comment]		
		Approach to Providing the Requested Scope of Services	Includes an understanding of the RFP and of the project's scope of services, knowledge of applicable laws and regulations related to the scope of services.	BKD, LLP	Evaluator 1	Good approach and methodology. Understands Banning staff engagement. Phase 2 approach is well thought out.	None	Firm understands who Banning Elec Utility is and what we do.
					Evaluator 2	Has thorough understanding of the RFP. In addition, understanding of City government structures and utility billing.	Specific RFP requests not expanded on in proposal and discussed thoroughly.	[no evaluator comment]
					Evaluator 3	[no evaluator comment]	[no evaluator comment]	[no evaluator comment]
Christy White Associates	Evaluator 1			[no evaluator comment]	[no evaluator comment]	Approach "CWA will utilize COSA (Community of Sponsoring Organizations) framework to assess risk in all key internal control areas of the school district. The COSA Framework is a model for evaluating internal controls and the best industry standard.	I do not think they understood Scope of Work.	
	Evaluator 2			Provides thorough understanding of the RFP and projects scope of work.	Knowledge of applicable services noted, however, limited to City governmental agency knowledge as well as electric utility.	[no evaluator comment]		
	Evaluator 3			[no evaluator comment]	[no evaluator comment]	[no evaluator comment]		
Moss Adams LLP	Evaluator 1			Good Q/A approach. On going reporting. Recognize potential impacts. Perform Gap Analysis.	Experience	[no evaluator comment]		
	Evaluator 2			Has extensive experience in city as well as utility auditing. Utilizes off site survey for key personnel which may save time.	Length of time on site, as well as time spent in areas such as cash handling (front counter) could be disruptive.	[no evaluator comment]		
	Evaluator 3			[no evaluator comment]	[no evaluator comment]	[no evaluator comment]		

Criterion	Detail	Vendor Name	Evaluator	Proposal Comments		
				Strengths	Weaknesses	Comment
Price Proposal	Price Proposals will be evaluated on the basis of the Total Estimated Annual Price submitted in proposal.	BKD, LLP	Evaluator 1	Seems to understand the work; good experience	[no evaluator comment]	[no evaluator comment]
			Evaluator 2	Price paid will be provided to vendor with extensive utility and City auditing experience.	Price point high based on time at location and length of time of services provided.	[no evaluator comment]
			Evaluator 3	[no evaluator comment]	[no evaluator comment]	[no evaluator comment]
		Christy White Associates	Evaluator 1	[no evaluator comment]	Do not believe	Way over priced.
			Evaluator 2	Price is moderate for the scope of work proposed as well as allotted time indicated.	Thoroughness of audit concern, in regard to price point as well as limited experience with government entity.	[no evaluator comment]
			Evaluator 3	[no evaluator comment]	[no evaluator comment]	[no evaluator comment]
		Moss Adams LLP	Evaluator 1	[no evaluator comment]	[no evaluator comment]	[no evaluator comment]
			Evaluator 2	Price is subjective to length of time spent on site as well as experience of the firm.	[no evaluator comment]	[no evaluator comment]
			Evaluator 3	[no evaluator comment]	[no evaluator comment]	[no evaluator comment]

Criterion	Detail	Vendor Name	Presentation Comments			
			Evaluator	Strengths	Weaknesses	Comment
Grasp of the Project	Identification of critical elements and key issues.	BKD, LLP	Evaluator 4	[no evaluator comment]	[no evaluator comment]	Overall had a clear game plan, emphasizing a methodical approach with lots of QA/QC. Open to revising scope during initial phase of project to deliver exactly what Banning wants.
			Evaluator 5	Demonstrated basic knowledge of COB. Demonstrated research of COB and desire to create a relationship. Exhibited Capabilities.	Firm is out of area. Lacks familiarity with SoCal marketplace.	Well-rounded firm.
			Evaluator 6	Understood the City's goals towards its citizens, will work and outline the strategy and change it as needed to reach the goal	Has little experience with Prop. 26. Has no current relationship with city	Very professional. They seemed to know what the proposal but were unaware of certain things specially pertaining to the questions on Prop.26 they appear to have the resources to get any information they need quickly.
		Christy White Associates	Evaluator 4	[no evaluator comment]	[no evaluator comment]	Understood the drivers leading up to the project.
			Evaluator 5	Local firm and demonstrated knowledge of COB. Concerned about COB's expectations on conclusions. Concise and logical presentation.	Utility billing experience but no electric industry experience. COB needs to prioritize scope.	Demonstrated managerial abilities.
			Evaluator 6	Researched city's utility history, had an outline based on Scope of work from proposal, main point to prioritize point in Scope of Work	Not familiar with Prop.26, may have low knowledge of utilities audit	Seemed to be very prepared and understood that points needed to be prioritized to get the results wanted by the project.
		Moss Adams LLP	Evaluator 4	[no evaluator comment]	[no evaluator comment]	Very clear understanding of project, although tried to sell the City on long-term services such as internal auditing, update to the strategic plan, risk assessment, etc. A little early to be considering those tasks.
			Evaluator 5	Demonstrated electrical industry knowledge Demonstrated average research on COB Promoted long-term relationship & other services Presentation matched interview questions	Suggested a "fairly narrow" scope of work	Could be more familiar with COB overall.
			Evaluator 6	very knowledgeable of all questions asked, very detailed in answering	had not done research on city or its needs with this project	He appeared to know a lot about what the scope of work was asking and what the expected results were to be

Presentation Comments						
Criterion	Detail	Vendor Name	Evaluator	Strengths	Weaknesses	Comment
Approach and Work Plan for the Project	Including innovative approaches	BKD, LLP	Evaluator 4	[no evaluator comment]	[no evaluator comment]	QA/QC emphasis, with plenty of time devoted to understanding data and processes.
			Evaluator 5	Dashboard services and data mining. Test and verify at every juncture; report and no surprises. Flexibility. Full-service firm.	Lacks market place familiarity.	Exhibited expertise in process evaluation and internal control procedures.
			Evaluator 6	Very flexible to planned approach, any abnormal findings investigated and reported immediately, no change in cost except if scope of work changes. Dashboard report simplifies hundreds of pages into visual presentation	project may take longer if all data is not obtained	The firm seemed to be flexible to the planned approach they will make an outlined planned but if it needs to be changed they are willing to do it. The dashboard report simplifies things into a visual presentation, I feel this could help in making things easier to explain. They will need a person of contact from the city to obtain what is needed, depending on how thorough they are with the data needed this could make the project last longer.
		Christy White Associates	Evaluator 4	[no evaluator comment]	[no evaluator comment]	Prioritization of goals was a suggestion for the City. The RFP included a lot, and some focus on what truly matters would help the project be successful.
			Evaluator 5	Wants to parse the scope of work. Standard audit approach and work plan Use of technology for ease. (VPN)	Proposes a long drawn out time frame. (6 months)	Audit manager demonstrated a strong audit foundation and exhibited a logical strategy.
			Evaluator 6	Objective prioritization, had outline of plan based on needs on proposal SOW, Surveys sent to various people, Access portal for uploading documents,	may lack resources for information	She seemed to have really studied the scope of work and what was needed, showed up with a plan on how to get things started, she seemed very eager but appeared to lack some knowledge on the utilities side of things and I'm not sure if she would have the resources to get information as quickly as the other auditors
		Moss Adams LLP	Evaluator 4	[no evaluator comment]	[no evaluator comment]	emphasized a collaborative approach, with the ultimate goal of helping the City deliver better service to its customers.
			Evaluator 5	Uses standard audit approach Desires access to COB policies & procedures; low expectations Expects COB to have common weaknesses Full-service firm Large firm with the ability to work at COB staffs' pace	[no evaluator comment]	The scope of work and audit approach/work plan is in our "wheel house."
			Evaluator 6	portal for uploading, help define needed improvements if any are found to be needed, work around constraints	[no evaluator comment]	was ready with a plan to proceed with scope of work and willing to work around and solve any constraints that would be found.

Presentation Comments						
Criterion	Detail	Vendor Name	Evaluator	Strengths	Weaknesses	Comment
Qualification and Experience	Of the Project Manager and Other Key Individuals.	BKD, LLP	Evaluator 4	[no evaluator comment]	[no evaluator comment]	One of the largest Accounting firms in the country. Has resources available with various expertise.
			Evaluator 5	Size, depth, and breadth of firm. Flexibility and adaptability. No predisposition of outcome. Introduced 3 of key staff that will be used for services.	No CAISO experience. No relationships in area (being a true outsider).	All business.
			Evaluator 6	30+ years of experience, Various field industry knowledge staff, vast resources	start/stop work depending on gathering of data, change in scope of work will affect cost	They seemed very professional and appear to have the resources to find any information needed in a timely manner, appear to be very thorough as they have a system of verifying all data before proceeding to next step, this may prolong the project.
		Christy White Associates	Evaluator 4	[no evaluator comment]	[no evaluator comment]	Most of the experience has been with school districts. However, a local presence in San Diego and Inland Empire would be helpful.
			Evaluator 5	Very experienced in auditing and comfortable with their firm's niche. Demonstrated experience in handling systematic fraud and difficult situations.	Firm lacks of depth and breadth necessary for COB. No electric utility experience.	[no evaluator comment]
			Evaluator 6	17+ years experience with public sector, only deals with public sector audits, more personal style to request than other auditors, experience dealing with difficult situations	may lack resources to get information as quickly, not sure on size of staff to be able to deal with any issues that may arise	she appeared to be ready to deal with any difficult situations. She mentioned they were a smaller firm so I'm not sure if this will make getting information or having to resolve any issues that arise more difficult.
		Moss Adams LLP	Evaluator 4	[no evaluator comment]	[no evaluator comment]	Large firm focusing on State and Local Government. 2600 employees. Their group leader for Electric utilities is based in the same office as the proposed PM, though her team is in Orange County. 100% of projects within budget.
			Evaluator 5	Firm has electric utility book of business. SME's are local. Existing relationship with SCPPA. Demonstrated experience with contentious environment.	[no evaluator comment]	May be "over confident?"
			Evaluator 6	works with local government, has contacts with electric utility practice firm, highly responsive, have never gone over budget.	SOW from proposal may not lead to results that are expected	Was very knowledgeable and professional, seems to have many contacts in area needed

Criterion	Detail	Vendor Name	Presentation Comments					
			Evaluator	Strengths	Weaknesses	Comment		
Communication Skills of Personnel	Did they answer all questions? Eye contact?	BKD, LLP	Evaluator 4	[no evaluator comment]	[no evaluator comment]	Very organized and professional presentation.		
			Evaluator 5	Prepared. Professional. Complete. Competent and Capable.	Data focused.	Beautiful, professional, marketing piece provided to introduce BKD to COB.		
			Evaluator 6	Very professional, prepared, very attentive to all questions asked	did not have much knowledge on questions regarding Prop.26	They came very prepared and had a great very impressive presence, the power point presentation did not focus on the questions asked but they did have answers to all of our questions and were prepared when asked.		
		Christy White Associates	Evaluator 4	[no evaluator comment]	[no evaluator comment]	Took a more relaxed, less rigid approach. Good sense of humor and very personable.		
			Evaluator 5	Personable and Professional. Non-confrontational and friendly (excellent for interviewing staff). Concise communication. Prepared.	[no evaluator comment]	Perceive the audit manager to be a good fit for COB.		
			Evaluator 6	Answered all questions, presentation was made to answer all questions, very personable and relaxed	Would sometimes stray off in conversation	She came very prepared and ready to answer all of our questions, she felt very relaxed and not intimidated.		
		Moss Adams LLP	Evaluator 4	[no evaluator comment]	[no evaluator comment]	Very extroverted and quick thinking. Cool under pressure, would do well presenting to Council.		
			Evaluator 5	Complete. Personable. Prepared.	A little bit of "car salesmanship."	Almost too "chatty."		
			Evaluator 6	very knowledgeable, all questions answered in presentation	would stray of conversations	Came very prepared knowing what it was the SOW asked for		
		Quality of the Overall Presentation	Response to key questions.	BKD, LLP	Evaluator 4	[no evaluator comment]	[no evaluator comment]	was not prepared to discuss Prop 26 and related questions. Very prepared to discuss all other topics. Presented information clearly and efficiently.
					Evaluator 5	Partially grasped the purpose of key questions but exhibited the ability to complete the scope of RFP.	Missed the conflict of interest piece of the questions that is, can't be both an auditor and a management consultant.	Within the firm, BKD has the SMEs but did not consult with staff for input into presentation.
					Evaluator 6	Were very honest about their lack of knowledge, were prepared to research any information needed	Did not have much knowledge on Prop.26 and other utility questions	They did not appear to know much on Prop.26 and the final questions asked, they seemed to be very capable of getting any information they needed.
Christy White Associates	Evaluator 4			[no evaluator comment]	[no evaluator comment]	No experience with Prop 26 and electric rates. However, emphasized resourcefulness and willingness to do the research to complete the project.		
	Evaluator 5			Truthfully disclosed firm's weakness and lack of subject matter expertise.	Did not grasp the purpose of the key questions and exhibited lack of knowledge of electrical energy industry.	Greatly appreciated presenter's business ethics.		
	Evaluator 6			studied proposal and SOW, Very prepared, very friendly and more personal	lacked knowledge on Prop.26 questions and some utility	She was very prepared and willing to work, was very friendly and very relaxed, felt more personal and not just a spiel to sell her firm.		
Moss Adams LLP	Evaluator 4			[no evaluator comment]	[no evaluator comment]	familiar with Prop 26 and stated that it would be a conflict of interest for an auditor to work on rate design for the same customer. This showed a firm grasp of the project and potential hurdles.		
	Evaluator 5			Only firm to understand purpose of key questions. "Conflict of Interest."	[no evaluator comment]	[no evaluator comment]		
	Evaluator 6			Very knowledgeable of what was asked to be performed and what was expected, knew answers to prop.26 and asked questions to confirm	may have been over detailed in certain questions	He seemed to know what was being asked of the project and the results expected, has the resources to gather the information needed and get the project going		

Internal Audit Services

CONTRACTOR	Moss Adams LLC		BKD, LLC		Christy White Associates		
Agency	City of Modesto	<i>No Response Received</i>	NMPP Energy	<i>No Response Received</i>	Compton Unified School District	Monterey County Office of Education	<i>No Response Received</i>
Respondent & Title	Joe Lopez		Jame L. Johnson - Director of Finance & Accounting		Mr. Sunny Dhaka, MBA, CPA, CGMA - Senior Director, Fiscal Services	Gary P. Bousum, Associate Superintendent	
What type of work did they do for you?	Internal Audit	City of Roseville - Monty Hanks	Financial statement audit for each company noted above	Lubbock Power & Light - Andy Burcham	They conducted the Annual Financial Audit and Single Audit	Special Education Indirect Cost Audit, Fiscal Accountability Review, Delinquent Tax JPA Audit, Sunnyside JPA Dissolution Audit.	Southwest Community College - Wayne Yanda
Annual Cost	\$200,000	Pacific Northwest Generating Cooperative - Jon Wislar	\$95,550 for Fiscal Year End 3.31.2018	Northern Illinois Municipal Power Agency - Trevor Smith	The district has a General Fund budget of more than \$270 million	\$6,000 \$13,500 \$1,500 \$17,750.	
How would you rate this consultant on total cost?	5		3		5	5	
On Timeliness?	5		3		5	5	
On Problem Responsiveness?	5		4		5	5	
On Quality of Service?	5		4		5	5	
On Attitude of Personnel?	5		5		5	5	
If you had to go out and bid today for a similar project, would you choose this firm again?	Absolutely		Yes. Our most recent bid process was in 2016. BKD was competitive on price and has proven themselves on service		Yes. We recent had the firm conduct a bond audit apart from the financial audit.	Yes, work was great, price was fair	
What are the strengths about this firm?	Professionalism, knowledge, timeless		The people assigned to our engagement are knowledgeable about accounting standards, and also about the unique challenges facing our industry		They are professionals, hence they abide by the auditing standards. In addition, they are experienced and are fully aware of all State and Federal compliance requirements. Further, they are always will to come to our board meeting and make presentations when called upon.	Working through the statement of work. Knowing what the client should produce for the audit.	
What are the weaknesses of this firm?	Nothing		My staff at times are frustrated that there is a new person involved with our engagement annually. As a former auditor (I worked for BKD from 2005-2011), I understand that the staff accountants need to be new each year. What is more important to me is that the manager/partner stay consistent which has been the case for our engagement.		I have not noticed any weaknesses.	None that I can think of.	
Did they exceed their proposal cost?	No		They did not exceed their proposal cost.		No we have a three year contract with the firm and the abide by the yearly contract amount	No, in all cases	
If so, by how much?	N/A		N/A		N/A	N/A	
If applicable, do you feel the exceeded costs were justified?	N/A		N/A		N/A	N/A	
Additional Comments	N/A		N/A		N/A	N/A	

ATTACHMENT 2

Proposals received by Christy White Associates,
Moss Adams, LLP and BKD, LLP

PROPOSAL FOR INTERNAL AUDIT SERVICES
CITY OF BANNING
BANNING, CALIFORNIA

RFP NO. 17-105

Submitted on January 26, 2018 by:

Christy White Associates
A Professional Accountancy Corporation
Christy White, CPA, President

Corporate San Diego Office

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Greater Los Angeles Office

Assigned to Serve
City of Banning

San Diego

Los Angeles

San Francisco
Bay Area

christywhite
A PROFESSIONAL
ACCOUNTANCY CORPORATION *associates*

January 26, 2018

City of Banning
Administrative Services Department
99 East Ramsey Street
Banning, California 92220

Christy White, CPA

Michael D. Ash, CPA

John Whitehouse, CPA

Heather Daud Rubio

Dear Members of the Governing Board and Administration:

Christy White Associates (CWA) is pleased to respond to your request for proposal for **City of Banning's** (the "City's") **Internal Audit Services**. Which will be valid for a minimum of 180 days following submission. We are excited about the possibility of working with the City on this important project!

CWA is a regional CPA firm specializing in public sector audits for over 17 years. Founding partner Christy White has over 30 years of audit and consulting experience and is joined by three experienced partners and a staff of 25.

SAMPLE OF CURRENT INTERNAL AUDIT AND CONSULTING CLIENTS

CWA professionals are members of the Institute of Internal Auditors and the Certified Information Systems Auditors Association. Our internal audit work includes assisting these current client:

- Southwestern Community College
- Compton Unified School District
- Monterey Peninsula Unified School District
- Riverside County Office of Education
- San Diego Unified School District

Firm President Christy White is also the former **Senior Director of Consulting Services for School Services of California, Inc.**, For over 7 years, she consulted on internal control issues including San Francisco Unified; San Diego County Office of Education; Sweetwater UHSD; Fresno USD; and Oakland USD.

SAN DIEGO
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*Licensed by the California
State Board of Accountancy*

PROPOSAL FOR INTERNAL AUDIT SERVICES
FOR CITY OF BANNING

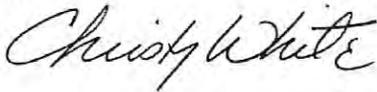
My partners and I have a great deal of interest and commitment to providing excellent internal auditing and consulting services to the City. You can expect that I would personally be overseeing the risk assessment development for your City, assisted by Audit Partner Heather Rubio and Director Dena Whittington. I am authorized to sign the contract. You will find that the level of partner and manager time afforded by CWA is unmatched by other audit firms. Accompanying me on the risk assessment development will be Alexis McKeon, CPA; Kyle Montgomery, CPA, Director; and experienced senior and staff auditors.

Christy White Associates is committed to meeting all requirements and timelines for the successful completion of the engagement. We accept all of the terms and conditions of the City's Contract and insurance requirements. Upon concluding the contract terms, CWA will hold an entrance meeting and set forth specific work plans and due dates for each major work area. Regular progress meetings will be held and any issues will be resolved timely and before the release of the final reports.

Christy White Associates acknowledges that it has not held any professional relationships involving the City over the past five (5) years and that there is no conflict of interest relative to performing the proposed audit services.

Christy White Associates' proposal and other appropriate items are valid, firm, and irrevocable for six months. After reading through our proposal, if you have any questions, please feel free to contact me at 619-270-8222. I would be happy to meet with the Governing Board.

Sincerely,



Christy White, CPA
President

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TECHNICAL PROPOSAL

BACKGROUND AND PROJECT SUMMARY SECTION

CWA will conduct the City's proposed Internal Audit for Electric Utility Billing, which will include:

1. Examine all cash, check and credit transactions of the Banning Electric Utility and determine if all customer cash payments are fully accounted for. Amount of money deposited should correspond with the amounts paid by City of Banning customers.
2. Identify the amount of electricity purchased (from Southern California Edison and other power suppliers) by the utility in a given year, and compare it to the amount of electricity sold to customers during that year (In Megawatt Hours).
3. Identify all dwellings in the City that receive utilities but are not billed or are partially billed. Identify the retail value for each of those transactions.
4. Examine random samples of electric utility bills for billing accuracy (based on meter readings provided), rate structure and consistency.
5. Examine if electric utility usage was overridden (lowered) manually in individual cases.
6. Identify charges billed for incorrect or non-existent equipment.

Deliverables:

1. CWA will make recommendations establishing controls and proceedings for employees counting and/or handling cash (prior to cash pickup by security company).
2. CWA will present recommendations for changes to the billing rate structure, along with recommendations for the monitoring of the City's future utility billings.
3. Initial Analysis Report – Firm shall provide a written Initial Analysis Report of the past two (2) years of utility bills.
4. Written draft reports will be required within two weeks of completion of the internal audit field work. Results will be discussed between the audit firm partner or manager and the appropriate City of Banning staff, and a final report will be issued within two weeks of such meeting. Copies of the final report will vary in number, depending on the audit. These additional copies are to be provided by the audit firm, and are to be included in the contract price.
5. Irregularities and illegal acts – Auditors shall be required to make an immediate, written report of all irregularities and illegal acts or indications of illegal acts of which they become aware to the Administrative Services Director and City Manager and City Attorney.

METHODOLOGY SECTION

We propose meeting with district representatives prior to the start of the engagement to agree upon the **Project Work Plan** and establish our interview schedule. The project work plan will be developed by partners **Christy White and Heather Rubio**. We will meet with city staff to discuss and agree upon the final plan before conducting the **Internal Audit**. We will monitor our work and report regularly to city representatives.

Elements of our approach to managing projects are as follows:

- Assign personnel to areas of the project where their expertise is required
- Ensure that project expectations and scope are clearly defined up-front through development of a project
- Ensure frequent communications with the client
- Identify and anticipate potential project risks to minimize their occurrence and impact
- Closely monitor project timelines and budgets

PHASE 1: PROJECT MANAGEMENT

Phase Objective and Summary of Activities: The purpose of this phase is to conduct activities that are relevant to managing the project and enhancing its success for the City. The major activities to be performed are as follows:

- **Develop a detailed Project Plan identifying the activities, responsibilities and timing of tasks necessary to complete the project.** A project initiation meeting will be conducted to introduce the project team, finalize the project scope, deliverables and timetables. These objectives will be accomplished through the development of a project organizational structure, detailed project plan and regularly scheduled progress meetings. These steps are described below. A project kick-off meeting will also be held to communicate to City staff the goals, structure and timeline of the project.
- **Establish a Project Collaboration Environment to act as a repository for project information.** Over the last few years, collaboration environments such as Microsoft SharePoint have become increasingly viable tools in which to establish project collaboration environments for small, mid-size and large-scale projects. These environments can serve a variety of purposes including acting as a repository for documentation developed during the course of an engagement. Or we also have an internal CWA secure portal that can be used.
- **Closely monitor project timelines and budgets.** Continuous feedback is the key to a successful project. In this way, problems can either be avoided entirely, or addressed early on, to minimize wasted effort and keep the project on schedule. We will schedule regular conference calls with the City.

METHODOLOGY SECTION

PHASE 2: REVIEW AND ASSESSMENT

Phase Objective and Summary of Activities: The purpose of this phase is to conduct a needs assessment around process areas relevant to the project for the purpose of defining key functional requirements that will be used as part of the process for evaluating proposed areas in the scope of work. Activities to be included in this phase are as follows:

- **Obtain and review relevant documents to obtain background information on the current and desired environment.** CWA will review applicable Administrative Regulations, department policies, and the City's organizational structure to assess the overall internal control framework related to utility billing; Documents to be reviewed include the following:
 - Previous studies that are relevant to the project
 - Relevant process and function descriptions/handbooks, pre-existing workflow documentation/flowcharts, such as those that has already developed
 - Organizational charts
 - Billing Rates and Services
- **Conduct interviews with key stakeholders** After reviewing the documentation collected, CWA will conduct up to five days of interviews with teams representing departments directly involved with the City's utility and billing process. During the interviews, we will discuss key current business and technological workflows in order to further define the current systems and required system interfaces. These sessions will focus on reviewing any unique requirements that are needed by the City.
- **Obtain reports necessary and submit sample requests.** We will examine all electric utility billing transactions, identify and analyze amount purchased and city dwellings, we will examine billing for accuracy and identify equipment billed. Process to include the following:
 - Analyze utility account data and utility invoice reports to assess whether City staff sufficiently review billing information prior to authorizing payment.
 - Developed process maps to determine Citywide processes related to the review of utility account billing information.
 - Review accounts to identify opportunities in which the City may reduce energy costs by changing to a more cost-effective billing rate.
 - Analyze financial and asset management data related to street light inventory data with the City's inventory data.

METHODOLOGY SECTION

PHASE 3: RESULTS AND REPORTING/DELIVERABLES

Phase Objective and Summary of Activities: The purpose of this phase is to report the results of the internal audit to the.

- **Assessing the Control Environment for managing electric utility charges.** CWA will utilize COSO (Committee of Sponsoring Organizations) framework to assess risk in all key internal control areas of the school districts. The **COSO Framework** is a model for evaluating internal controls and the best industry standard.
- **Guidance for establishing a comprehensive control framework over utility and billing.** Without a Comprehensive Control Framework, the City May Miss Opportunities to Identify Lower Utility Account Rates and Potential Invoice Errors. We will make recommendations establishing controls and proceedings for employees counting and/or handling cash. Additionally, we shall present recommendations for changes to the billing rate structure along with recommendations for the monitoring of the City's future utility billings.
- **Analysis reports.** We will provide a written Initial Analysis Report of the past (2) years of utility bills. Written draft reports and will provide an immediate written report if we come across any irregularities and illegal acts.

TECHNOLOGICAL ADVANTAGES

We utilize the latest technology, including virtual servers, smart devices and online libraries to provide us with the most up-to-date information to better serve our clients. First, our online client portal gives us the capability of sending and receiving information to and from our clients faster and more securely. As portals are encrypted and use password protection to ensure that data can only be viewed by the appropriate client, we are dedicated to protecting the City's confidential information. Furthermore, we streamline our audit process and organize support documents through use of the program ProSystems Working Papers. By effectively reviewing large volumes of data through these programs, we are able to develop a better understanding and gain a broader view of the City. These technologies enable us to increase both the scope of our engagement and the reliability of our audit work efficiently, as a larger amount of information can be processed, analyzed and interpreted in a short time frame. We will be able to conduct the vast majority of our audit virtually in an effort to minimize the disturbance to City staff.

LEVEL AND NATURE OF SUPPORT REQUIRED

Christy White Associates requests sufficient space in close proximity to the accounting department and access to office equipment (e.g. copiers, phones and fax) be provided. We would also ask that the staff be generally available to answer questions and pull sampled documents throughout the course of the audit. However, we are paperless and have a client portal for ease of document transmission.

METHODOLOGY AND PROJECT WORK PLAN (CONTINUED)

TIME REQUIREMENTS

We make thorough planning a priority and believe that open communication and cooperation will ensure that the engagement will proceed smoothly and that mandated deadlines will be met. This schedule can be modified to meet the needs of the Board and Audit Committee.

Timeframe	Staff Assigned	Risk Assessment & Internal Audit Proposed Work	% of Work Done
Within 7 days of board approval	Partner, Manager and Experienced Staff	Planning and meetings with staff	25%
Within 90 days of board approval	Partner, Manager and Experienced Staff	Conduct the audit and provide the necessary reports.	75%
<i>Total</i>			100%

PROPOSAL FOR INTERNAL AUDIT SERVICES
FOR CITY OF BANNING

STAFF QUALIFICATIONS

ENGAGEMENT MANAGERS

President and Audit Partner Christy White, CPA will actively manage the audits assisted by Principal Heather Daud-Rubio, Director Alexis McKeon, CPA, and Director Dena Whittington, CFE. No subcontractors will be used.

All staff assigned to the project for RFP NO. 17-105 be working from our San Diego Office located at: 348 Olive Street, San Diego, CA 92103. All of our staff can be reached at 619.270.8222 and via fax at 619.260.9085.

Name	Title	Email Address	Relevant Experience	Audit Role	Onsite Assistance
Christy White, CPA	President	cwhite@christywhite.com	30-Years	Audit Partner	30-Percent
Heather Rubio Daud	Principal	hdaud@christywhite.com	10-Years	Supervising Partner	25-Percent
Alexis McKeon, CPA	Senior Accountant	amkeon@christywhite.com	5-Years	Supervising Auditor	15-Percent
Dena Whittington, CFE	Director	dwhittington@christywhite.com	4-Years	Supervising Auditor	30-Percent

RISK ASSESSMENT AND INTERNAL AUDIT EXPERIENCE OF PERSONNEL

The firm partners and staff of Christy White Associates bring an extensive background of audit and consulting experience to CWA clients. We have audited local educational agencies throughout California and are familiar with the unique issues relative to school finance, in particular: budgetary constraints, construction accounting, new state program issues, attendance accounting, state funding models and cash flow management. We are familiar with the various organizational structures of local educational agencies, from small and large K-12 districts, community school districts and county offices of education. The brief biography of the firm owners and staff can be found below.



President, Christy White, CPA has served hundreds of local educational agencies, over the past 30 years, twenty-two years in public accounting auditing over 250 educational agencies and seven years with School Services of California, Inc., a leading public education financial consulting and policy group. She has provided audit and financial consulting services in areas of organizational analysis, budgeting, negotiations and multi-year planning, in addition to developing and conducting six workshop series throughout the State. Ms. White is known as a leading expert in attendance accounting, school district organization, and fiscal analysis. As the founding partner of CWA, Christy provides her clients with creative and practical solutions to problems.

STAFF QUALIFICATIONS (CONTINUED)

RISK ASSESSMENT AND INTERNAL AUDIT EXPERIENCE OF PERSONNEL - CONTINUED



Principal, Heather Daud Rubio, is a key team member on CWA school district, office of education, Proposition 39 bonds and JPA's. As a Principal, Heather's responsibilities include leading, planning, performing, and supervising audit fieldwork. She has experience with our largest clients, including City of Banning, San Joaquin County Office of Education, Garden Grove Unified School District, and Contra Costa County Office of Education. Prior to joining CWA Heather worked as a project accountant in the construction industry. Heather holds a Bachelor of Arts degree in Economics with an emphasis in Accounting from the University California, Santa Barbara.



Senior Accountant, Alexis McKeon earned a Bachelor's Degree in Business Administration with an Option in Accounting from California State University San Marcos. At Christy White Associates, Alexis has been engaged to perform audits of local education agencies including City of Banning, Grossmont Union High School District, San Marcos Unified School District and various others. In addition to Local Education Agencies, Alexis has worked on a variety of clients including, County Offices of Education, Charter Schools, Non-profit organizations, For-profit organizations and Community Colleges.



Supervisor, Dena Whittington, CFE completed a Bachelor of Science in Accountancy from National University, and began her career in K-12 finance as the Internal Auditor for a school district in San Diego. After 10 years in this position, she joined Nigro, Nigro & White as an external auditor for districts. She returned public schools for ten years as Assistant Superintendent of Business Services. As Assistant Superintendent of Business Services, she served two districts, the first district being a Basic Aid district and the second district having a low socio-economic population.

COMPUTER SPECIALISTS AND SUPPORT STAFF

The Computer Admin is committed to protecting its data and that of its partners and clients from unauthorized viewing, copying, downloading, transfer, modification, or deletion. Providing for the confidentiality, integrity, and availability of Christy White Associates' data is paramount for The Computer Admin to maintain its reputation and competitive edge, the confidence of its clients, and to comply with all regulatory requirements.

On behalf of Christy White Associates, The Computer Admin manages and maintains technical and procedural standards for connecting workstations (desktop and laptop computers) to Christy White Associates' networks, systems, and resources. The Computer Admin provides break-fix services, backup maintenance for both physical and virtual environments, complete networking support, server monitoring, and onsite support. The Computer Admin also provides consulting for network security, anti-virus solutions, domain security, backup and recovery, and security and user policies.

STAFF QUALIFICATIONS (CONTINUED)

COMPUTER SPECIALISTS AND SUPPORT STAFF – CONTINUED



President of Computer Admin, Kevin Fronczek, has been working in the tech industry for almost fifteen years. Kevin started his professional career as the CTO for The University of Montana College of Health Professions and Biomedical Sciences. Kevin now owns and operates his own IT service provider company in San Diego. Kevin provides expert support and consulting for his clients. His focuses are networking, security, cloud management, and server environments.



Infrastructure Manager of Computer Admin, Kyle Fronczek, got his start in the tech field about ten years ago. He loves the challenge of working with technology and the excitement of finding a solution. Most of his experience was gained working with Apple and he is currently an Apple Certified Support Professional. At The Computer Admin, Kyle’s responsibilities include developing, implementing, supporting, and maintaining our client’s networking and infrastructure.

Name	Company	Email Address	Relevant Experience	Title
Kevin Fronczek	Computer Admin	kfronczek@thecomputeradmin.com	15-Years	President
Kyle Fronczek	Computer Admin	kyle@thecomputeradmin.com	10-Years	Infrastructure Manager

RECRUITMENT PROGRAM

Christy White Associates actively recruits CPA qualified candidates from our local universities. We participate in on campus interviews, invite the best candidates to tour our offices and meet with our partners and staff. Our hiring process includes a requirement to pass an accounting and auditing test in addition to the oral interview process. We also recruit experienced staff through promotion of our firm and invitations to apply for open positions.

EQUAL OPPORTUNITY EMPLOYER

Christy White Associates provides equal employment opportunities (EEO) to all employees and applicants for employment without regard to race, color, religion, sex, national origin, age, disability or genetics. In addition to federal law requirements, Christy White Associates complies with applicable state and local laws governing nondiscrimination in employment in every location in which the company has facilities. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

Christy White Associates expressly prohibits any form of workplace harassment based on race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability, or veteran status. Improper interference with the ability of Christy White Associates’ employees to perform their job duties may result in discipline up to and including discharge.

CWA QUALIFICATIONS

Christy White Associates (CWA), a professional California corporation, is an independent CPA firm with offices located in San Diego, Los Angeles and the San Francisco Bay Area. CWA is licensed with the State Board of Accountancy as a professional accountancy firm and is a certified small business and woman-majority owned firm.

Christy White, CPA, is the founding partner and along with Audit Partner Heather Rubio will actively lead the Internal Audit Services.

FIRM LICENSE, AFFILIATIONS, ASSOCIATIONS AND TAX IDENTIFICATION NUMBER

CWA is a member of the Private Companies Practice Section (PCPS) and Government Quality Control Center (GQCC) of the American Institute of CPAs. Christy White Associates is licensed with the California State Board of Accountancy. We are members of the American Institute of CPAs (AICPA) and the California Society of CPAs.

In addition, we are association members with the California Association of School Business Officials, the Certified Fraud Examiner's Association, the Institute of Internal Auditors, the AICPA, and the California Society of CPA's.

Christy White Associates: Tax ID Number: 27-2956198.

CWA QUALIFICATIONS (CONTINUED)

Christy White Associates, Inc. works exclusively with K-14 school district providing independent auditing, forensic auditing, and consulting services. Our clients have included some of the largest districts in the state, such as:

- **San Community College District** – independent auditor for a 5-year period
- **California Department of Education and Los Angeles Unified School District** – major consulting engagement on school district reorganization of LAUSD
- **Garden Grove Unified School District** – independent auditor for a 16-year period
- **WestEd Educational Research** – independent auditor for a 4-year period
- **Grossmont-Cuyamaca Community College District** – independent auditor for an 8-year period and fiscal independence feasibility study, including computer systems
- **Southwest Community College District** – internal auditor for past 2 years, auditing warrants
- **Riverside County Office of Education** – primary consultant to the County Committee on School District Organization, assessing the feasibility of unification, territory transfers and other educational options.
- **San Diego County Office of Education** – feasibility study for the potential unification of Alpine School District, assessing impacts related to finances, facilities, transportation, education and community.

MONTEREY COUNTY OFFICE OF EDUCATION

Description of Services: CWA conducted a **Fiscal Accountability Study** on behalf of MCOE for two districts: Monterey Peninsula USD and Salinas City Elementary. This study includes an in-depth internal control and data processing assessment. It was conducted in 2015 when the districts were considering a new financial software and becoming fiscally independent from the county office. Over the course of several weeks, CWA documented and evaluated the current and proposed internal control systems over all accounting, purchasing, budgeting, payroll and HR functions. CWA met with the software developer and examined beta test data to determine the software capabilities and fitness for a school district with complex reporting requirements, including PERS/STRS reporting. Final reports and recommendations were provided to MCOE and each district. The approximate cost of the project was \$60,000.

Contact: Garry Bousum, Associate Superintendent, Finance and Business
gbousum@montereycoe.org Phone 831-755-0307

CWA QUALIFICATIONS (CONTINUED)

COMPTON USD

Description of Services: CWA was the **Internal Auditor** for Compton for over 8 years conducting a series in studies, audit and improvement plans. Christy White reported to the Superintendent and Assistant Superintendent of Business and developed annual internal audit plans that covered areas such as: fixed asset management; maintenance work order system development; food service federal program compliance and reporting; various fraud audits; facilities use fee development and controls; attendance accounting compliance and reporting; and student body accounting controls. CWA conducted approximately 4 extensive internal audits annually. Report findings and recommendations were provided to district cabinet, Superintendent and the governing board. The approximate cost of the project annually was \$40,000.

Contact: Teresa Santamaria was the Assistant Superintendent of Business during this engagement period which spanned 2001 through 2009. She is now retired. CWA is currently the external auditor of record and Sunny Okeke is our main contact. He can be reached at: 310-639-4321 #55037, sokeke@compton.k12.ca.us.

SOUTHWEST COMMUNITY COLLEGE

Description of Services: CWA is the **Internal Auditor** of record for this fiscally independent community college district. We audit all commercial and payroll warrants. Our audits include verification of the validity, compliance and accuracy of the payments. We have also been tasked with other internal audit assignments. The approximate cost of the project annually

Contact: Wayne Yanda, Director of Finance, Phone 619-482-6414

CWA QUALIFICATIONS (CONTINUED)

LOS ANGELES UNIFIED SCHOOL DISTRICT (on behalf of the California Department of Education)

Description of the Services: Study of the organization of LAUSD conducted on behalf of the California Department of Education. Christy White was the principal consultant on this major project to evaluate the organization, facilities, finances, student demographics, student performance and internal controls of the district. The goal was to determine the feasibility of breaking up the district into smaller districts.

Legislative authority for the study was granted through SB 1380 (Chapter 335/2000), authored by Senator Martha Escutia, and directed "the Superintendent of Public Instruction to enter into a contract with an independent contractor for the purpose of conducting a study to determine the feasibility of reorganizing the Los Angeles Unified School District by removing from that district the schools in the southeast area of the district, including those schools located in Bell, Southgate, Cudahy, Maywood, Huntington Park, Vernon, and the unincorporated areas of Florence/Graham and Walnut Park. This study shall assess the potential benefits and disadvantages that would result from such a reorganization of the district."

Christy White led a team of professionals to fulfill the contract by analyzing district data, interviewing staff, holding public community meetings and proposing options and barriers to reorganization. The report was submitted to the State Superintendent of Public Instruction. Christy White will lead the team for the Risk Assessment and Internal Control Plan for SDUSD. Her resume is included in this proposal.

Contact Information: Larry Shirey, School Fiscal Services Division, California Department of Education

Email: lshirey@cde.ca.gov

Phone: 916-322-1468

FISCAL CRISIS MANAGEMENT AND ASSISTANCE TEAM (Compton USD and Oakland USD)

Description of Services: Christy White was engaged while at School Services of California, Inc. in 1996-2000 to develop **fiscal standards and a risk assessment methodology** to evaluate first Compton USD and then later Oakland USD, both districts that were in state receivership status. The standards that were developed are still in use by the FCMAT teams. Her work covered all financial areas including, but not limited to: procurement, accounts payable, cash receipting, budgeting, cash flow, facilities management, inventory management, maintenance and operations, attendance accounting, federal and state grant management, risk management, human resources and payroll.

Contact Information: Joel Montero was the CEO at the time of the engagement. Mike Fine is the current CEO. Mike generally knows of Christy White's work. Mike can be reached at 951-212-2334.

PROPOSAL FOR INTERNAL AUDIT SERVICES
FOR CITY OF BANNING

CWA QUALIFICATIONS (CONTINUED)

INDEPENDENT AUDITS PERFORMED BY CWA

Christy White Associates completed last audit season having audited approximately 90 school districts on time. Here is a listing of some of our 2016 audit clients performed by CWA. Many of these LEAs have been our client for over six years:

Academy of Arts and Sciences	Garden Grove Unified School District	Ohlone Community College District
Acalanes Union High School District	Glendora Unified School District	Orland Unified School District
Acton-Agua Dulce Unified School District	Glenn County Office of Education	Pittsburg Unified School District
Alameda Unified School District	Gold Trail Union School District	Plaza School District
Albany Unified School District	Gompers Preparatory Academy	Point Arena Schools District
Alhambra Unified School District	Grossmont-Cuyamaca Community College District	Princeton Joint Unified School District
Anaheim City School District	Gustine Unified School District	Redondo Beach Unified School District
Banta Elementary School District	Hamilton Unified School District	San Antonio Unified School District
Barstow Unified School District	High Tech High	San Ardo Union School District
Beacons Classical Academy	Howard Gardner Community Charter	San Carlos Charter
Bradley Union Elementary School District	Humphreys College	San Diego Community College District
Buena Park Elementary School District	International School of Monterey	San Diego Cooperative Charter
Byron Union School District	Jamul-Dulzura Union Elementary School District	San Joaquin County Office of Education
Capay Joint Union Elementary School District	John Swett Unified School District	San Pasqual Union School District
Cerritos Community College District	Kavod Charter School	Santa Maria Joint Union High School District
Cold Spring School District	Keiller Leadership Academy Charter	Santa Monica-Malibu Unified District
Compton Unified School District	Knightsen School District	Santiago Middle School
Contra Costa County Office of Education	La Mesa-Spring Valley School District	Saratoga Union School District
Contra Costa SELPA	Lafayette School District	Solana Beach School District
Coronado Pathways Charter School	Lake County Office of Education	South Monterey County Joint Union High School District
Coronado Unified School District	Lake Elementary School District	South Orange Community College District
Culver City Unified School District	Lancaster School District	South Pasadena Unified School District
Da Vinci Charter Schools	Laytonville Unified School District	South San Francisco Unified School District
Damall Charter School	Lennox Elementary School District	Stony Creek Joint Unified School District
Dixie School District	Loma Prieta Union School District	STREAM Charter School
East Bay Innovation Academy	Los Angeles Academy of Arts	Sylval Union School District
East Whittier City School District	Magnolia School District	Taylion High Desert Academy
EJE Academies	Magnolia Union Elementary School District	Taylion San Diego Academy
El Monte Union High School District	Manchester Union Elementary	Tulare County Office of Education
El Segundo Unified School District	Meadows Elementary School District	Waterford Unified School District
Elevate Elementary Charter School	Method Schools	West Contra Costa Unified School District
Elkins Elementary School District	Mt. Baldy School District	William S. Hart Union High School District
Empower Charter School	New Heights Academy Charter School	Willits Unified School District
Encinitas Union Elementary School District	New Hope Elementary School District	Willows Unified School District
Escondido Union High School District	Newark Unified School District	Windsor Unified School District
Excelsior Charter School	Oak Park Unified School District	Wisburn School District
Flournoy Union Elementary School District	Oceanside Unified School District	

CUSTOMER SERVICE COMMITMENT

TERMINATION FOR CAUSE OR CONVENIENCE

CWA has never had an engagement terminated for cause or convenience. We strive to provide the best quality services to our clients. Good client communication, timely deliverables and a quality product is our guarantee!

CLAIM/LITIGATION/ARBITRATION HISTORY

CWA has never had a claim, litigation or arbitration in our 17 year history. We are in good standing with the State Board of Accountancy, the State Controllers' Office and other state, local and federal agencies.

CURRENT FINANCIAL STABILITY

CWA has maintained financial stability since its beginning as a firm 17 years ago. We have no long term debt and have a sound budget and cash flow monitoring system. We have never been sued and we have never filed for bankruptcy. We are a fiscally conservative firm. We are an S Corporation, meaning our profits are passed to the firm owners and we do not keep a large reserve except as needed for cash flow and major project initiatives. Attached are copies of our most recent financial statements.

PRICING PROPOSAL

COST-FEE SCHEDULE

BUDGETING PRACTICES AND OVERRUN POLICY

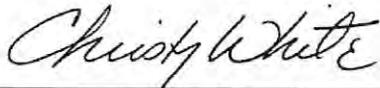
We believe our proposed hours and budget are reasonable and achievable. We do not bill for "extras" or failure on our part to budget properly. The only time a fee change might be made is if the client significantly changes the scope of the engagement, there are new or complex state/federal requirements or the client is unable to reasonably provide agreed upon information in a timely manner. These types of events rarely happen from our experience. Should an amendment on fees be required, we would meet first with the district to discuss the issues and agree upon a new fee based on a mutual understanding and prior to incurring the added costs.

FEE STRUCTURE FOR CITY OF BANNING

Pursuant to and in compliance with your Request for Proposal for Internal Audi Services and all other documents relating thereto, the undersigned Auditor, hereby proposes and agrees to perform the work to be done and to provide all labor and materials necessary to perform the work in connection with the Risk Assessment and Internal Audit Plan.

It is understood that the Agencies reserves the right to reject this proposal and that this proposal will remain open and not be withdrawn for a period of one hundred and eighty days.

The undersigned agrees to perform the Risk Assessment and Internal Audit Plan Services specified at a total cost not to exceed the amounts shown above.



Christy White, CPA, President
Christy White Associates

January 26, 2017

Date

PROPOSAL FOR INTERNAL AUDIT SERVICES
FOR CITY OF BANNING

EXHIBIT D – COST / FEE SCHEDULE

EXHIBIT D

RFP No 17-105

Internal Audit

Submitted by: Christy White Associates, Inc.

<u>Professional Classifications</u>	<u>Professionals Assigned</u>	<u>Billing Rates</u>	<u>Hours Assigned</u>	<u>Total Fees</u>
Partner	Christy White, Heather Rubio	\$ 250	55	\$ 13,750
Manager/Supervisor	Dena Whittington	\$ 170	55	9,350
Senior Accountant	Alexis McKeon	\$ 140	35	4,900
Experienced Staff	Natalie Palma	\$ 120	35	4,200
			<u>180</u>	<u>\$ 32,200</u>

Expenses: No expenses will be charged , our professional fees are all inclusive.

REQUIRED FORMS

EX PARTE COMMUNICATIONS CERTIFICATE

EX PARTE COMMUNICATIONS CERTIFICATION

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning the RFP No. 17-105 – Internal Audit Services RFP at any time after January 2, 2018.

Christy White

OR

I certify that Proposer or Proposer's representatives have communicated after January 2, 2018 with a City Councilmember concerning the RFP No. 17-105 – Internal Audit Services RFP. A copy of all such communications is attached to this form for public distribution.

PRICE PROPOSAL (ONLINE RATE SHEET)

DISCLOSURE OF GOVERNMENT POSITIONS

DISCLOSURE OF GOVERNMENT POSITIONS

Each Proposer shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

None.

DISQUALIFICATIONS QUESTIONNAIRE

DISQUALIFICATIONS QUESTIONNAIRE

The Consultant shall complete the following questionnaire:

Has the Consultant, any officer of the Consultant, or any employee of the Consultant who has proprietary interest in the Consultant, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes _____ No X

If the answer is yes, explain the circumstances in the following space.

OTHER ATTACHMENTS

BUSINESS LICENSE



ACCOUNTANCY CORPORATION

PERMIT NO. COR 6499
RECEIPT NO. 00309807

VALID UNTIL JULY 31, 2018

CHRISTY WHITE, ASSOCIATES, A
348 OLIVE STREET
SAN DIEGO CA 92103

In accordance with the provisions of Chapter 1, Division 3 of the Business and Professions Code, the firm named hereon is duly registered and entitled to practice as a Corporation.

08/09/16
08/09/16

----- POST IN PUBLIC VIEW -----

WABCOR 02/29/08

INSURANCE CERTIFICATES



**CAMICO MUTUAL INSURANCE COMPANY
DECLARATIONS
ACCOUNTANTS PROFESSIONAL LIABILITY INSURANCE POLICY**

Policy Number: CAL108463-07

Effective Date: 08/01/2017 at 12:01 A.M. Standard time at the address shown below
 Expiration Date: 08/01/2018 at 12:01 A.M. Standard time at the address shown below
 Retroactive Date: 08/01/2010

Item 1 - Named Insured: Christy White Associates

Item 2 - Business Address: 348 Olive St

San Diego, CA 92103

Item 3 - Limits of Liability: \$1,000,000 Per Claim
 \$3,000,000 Policy Aggregate

Item 4 - Deductibles: \$10,000 Per Claim Deductible

Item 5 - Total Premium: \$22,770

Item 6 - The policy consists of this Declarations page, and the following policy forms and endorsements:

- PL-1000-A 07/14 Accountants Professional Liability Insurance Policy
- PL-2001-A (CA) 07/14 State Endorsement - California
- PL-1007-A 07/14 Exclusion - Claims Following Insureds Suit for Fees
- PL-1034-A 07/14 Excluded Entities
- PL-1045-A 07/2014 Cyber CPA Endorsement
- PL-1049-A 07/2014 Privacy and Client Network Damage Endorsement
- PL-1056-A 06/16 Multiple Claims and Related Acts, Errors and Omissions Amendment

PLEASE READ THESE DECLARATIONS, THE POLICY AND ENDORSEMENTS CAREFULLY.

CAMICO Mutual Insurance Company

Authorized Representative



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/21/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER PAYCHEX INSURANCE AGENCY INC 150 SAWGRASS DR ROCHESTER, NY 14620 (877) 362-6785	CONTACT NAME: PHONE (A/C, No, Ext): (877) 362-6785		FAX (A/C, No): (877) 677-0447
	E-MAIL ADDRESS: paychex@travelers.com		
INSURER(S) AFFORDING COVERAGE			NAIC #
INSURED CHRISTY WHITE ACCOUNTANCY 348 OLIVE ST SAN DIEGO, CA 92103			
INSURER A : TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA			
INSURER B : TRAVELERS CASUALTY INSURANCE COMPANY OF AMERICA			
INSURER C :			
INSURER D :			
INSURER E :			
INSURER F :			

COVERAGES **CERTIFICATE NUMBER:** 511686757580332 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> HIRED AUTO <input checked="" type="checkbox"/> NON OWNED AUTO GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	X		680-5568R081-17	08/15/2017	08/15/2018	EACH OCCURRENCE	\$2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,000
							MED EXP (Any one person)	\$5,000
							PERSONAL & ADV INJURY	\$2,000,000
							GENERAL AGGREGATE	\$4,000,000
							PRODUCTS - COMP/OP AGG	\$4,000,000
								\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		UB-4493R185-17	08/15/2017	08/15/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$1,000,000
							E.L. DISEASE - POLICY LIMIT	\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
AS RESPECTS TO GENERAL LIABILITY, CERTIFICATE HOLDER IS ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION, CG T4 91 .

CERTIFICATE HOLDER	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Mary J. Swan</i>

QUALITY CONTROL PEER REVIEW

Grant Bennett Associates

A PROFESSIONAL CORPORATION

Report on the Firm's System of Quality Control

June 27, 2017

To the Shareholders of Christy White Associates, Inc. and the Peer Review Committee of the California Society of CPAs:

We have reviewed the system of quality control for the accounting and auditing practice of Christy White Associates, Inc. (the firm) in effect for the year ended December 31, 2016. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act.



www.gbacpa.com

1375 Exposition Boulevard, Suite 230
Sacramento, CA 95815
916/922-5109 FAX 916/641-5200

P.O. Box 223096
Princeville, HI 96722
888/769-7323

Grant Bennett Associates

A PROFESSIONAL CORPORATION

As part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Christy White Associates, Inc. in effect for the year ended December 31, 2016, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Christy White Associates, Inc has received a peer review rating of *pass*.

Grant Bennett Associates

GRANT BENNETT ASSOCIATES
A PROFESSIONAL CORPORATION
Certified Public Accountants



www.gbacpa.com

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Sacramento, CA 95815
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P.O. Box 223096
Princeville, HI 96722
888/769-7323

FINANCIAL STATEMENT

Christy White Accountancy Corporation
Profit & Loss
January through December 2016

	Jan - Dec 16
Ordinary Income/Expense	
Income	3,924,467.14
Cost of Goods Sold	
Client Printing & Shipping	26,778.51
Consultants	2,600.00
Information Technology	25,605.95
Miscellaneous (Clients)	3,343.69
Personnel Expense	1,023,339.41
Travel (Client)	344,845.02
Total COGS	1,426,512.58
Gross Profit	2,497,954.56
Expense	
Automobile Expense	7,073.11
Depreciation Expense	80,377.00
Facilities	231,135.82
General Administration	120,625.60
Insurance Expense	109,230.87
Marketing & Advertising	84,322.19
Personnel Expenses	892,630.08
Philanthropy	13,743.00
Professional Services	5,444.00
Staff Appreciation	20,063.08
Taxes	9,962.43
Training & Development	57,437.45
Uncategorized Expenses	-488.58
Total Expense	1,631,556.05
Net Ordinary Income	866,398.51
Other Income/Expense	
Other Expense	
Shareholder Compensation	700,277.80
Total Other Expense	700,277.80
Net Other Income	-700,277.80
Net Income	<u>166,120.71</u>

OPPORTUNITY RISING

INTERNAL AUDIT SERVICES PROPOSAL FOR
CITY OF BANNING

Mark Steranka, Partner

Moss Adams LLP
10960 Wilshire Blvd, Suite 1100
Los Angeles, CA 90024
(310) 477-0450



Dear Ms. McCoy:

Moss Adams LLP is extremely pleased to submit our proposal to provide internal auditing services for the City of Banning (City). We understand that the City is seeking internal audit services for the City's Electric Utility Billing. We are confident we offer the team, capabilities, approach, and level of dedicated service that will meet or exceed your expectations for the following reasons. Moss Adams:

- **Offers extensive experience providing government internal audits and related services.** Internal audit services are a core competency of our firm. We have a successful track record serving government agencies in this capacity. Our services typically encompass risk assessments, internal control audits, fraud audits, compliance audits, operational audits, performance audits, and revenue enhancement audits. We currently serve as the internal auditor for five cities in California.
- **Brings a comprehensive approach to internal audits.** Our approach incorporates a blend of internal audit rigor to guide fact finding and testing with breadth and depth of experience working with many other cities to inform practical recommendations. As a result, our deliverables help our clients to strengthen controls, reduce risks, and enhance performance.
- **Has a long history working with government entities, especially cities and counties.** Our projects have addressed all aspects of local government. Our experience with governments throughout the western United States is vast, including, but not limited to, work for cities, counties, and special purpose districts. Recent representative work in California has been performed for City of Culver City, City of Modesto, City of Roseville, City of San Jose, City of Santa Monica, City of Santa Rosa, City of Stockton, Housing Authority of Santa Clara County, Santa Clara Valley Water District, and Sonoma County.
- **Works for and reports to city managers, councils, audit committees, and senior management on a regular basis.** Because we are hired by elected officials and appointed leaders to solve challenging oversight and business practice problems at the highest levels, we are well-versed at dealing with this level of government.
- **Uses a collaborative approach to working with our clients.** Rather than performing engagements for our clients, we team with them to address what is needed to improve operations. Our team will work closely with the City to create a working relationship that will provide maximum benefit in meeting the stated goals and objectives for this engagement.

January 26, 2018

Jennifer McCoy
Purchasing Manager

City of Banning
99 E. Ramsey St.
PO Box 998
Banning, CA 92220-
0998

January 26, 2018

Jennifer McCoy
Purchasing Manager

City of Banning
99 E. Ramsey St.
PO Box 998
Banning, CA 92220-
0998

- **Adheres to appropriate standards.** As part of the 180 Moss Adams personnel assigned to providing services to government organizations, our proposed internal audit team has completed numerous relevant engagements for government entities consistent with the standards of the Institute for Internal Auditors (IIA) and in accordance with Generally Accepted Government Auditing Standards (GAGAS).
- **Provides total independence and objectivity.** Our approach is based upon straightforward analysis, bringing unbiased views and a fresh look to each situation. Nationally, we have built a solid reputation for our fair and objective approach to assessments and auditing, as well as being savvy about recommending practical, impactful solutions.
- **Represents an established, reputable firm with extensive local resources and expertise.** Moss Adams is the largest regional accounting and management consulting firm on the West Coast. We have been providing high-quality audit services to our clients for over 100 years. The firm employs approximately 2,900 staff in more than 25 locations, including a full-service office in Los Angeles.

The price quoted in this proposal is valid for 180 days from the date of proposal submission (January 26, 2018). Our office closest to the City is located at 10960 Wilshire Blvd., Suite 1100, Los Angeles, CA 90024; the phone number is (310) 477-0450. This project will be managed from our headquarters located at 999 Third Avenue, Suite 2800, Seattle, WA 98104; the phone number is (206) 302-6500.

Moss Adams is highly qualified to provide these services, and we firmly believe we offer the kind of special dedication, continuity, and commitment that inspires mutual trust and confidence in projects of this type. We look forward to the possibility of working with you on this important undertaking. Thanks very much for your consideration.

Sincerely,



Mark Steranka
Partner
(206) 302-6409
mark.steranka@mossadams.com

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Background and Project Summary

Known as “Stagecoach Town, USA” for its former setting as a stagecoach and railroad stop between Los Angeles and the Arizona territories, the historic City of Banning was incorporated in 1913—the same year as Moss Adams. Serving a population of approximately 30,000 residents, the City’s Administrative Services Department–Utility Billing Division is responsible for the billing and collection of the City’s utilities fees and charges, including electric, water, sewer and waste management. The City has approximately 13,000 accounts in 31 billing groups and the Utility Billing Division has 12 employees whose primary roles are in serving the City’s citizens through counter services and billing.

We understand the City is seeking a firm to provide internal auditing services in accordance with the AICPA’s generally accepted government audit standards (GAGAS) on the City’s Electric Utility. As a result of our audit, we will provide the city with recommendations to establish controls and proceedings for employees counting and/or handling cash; recommendations for any changes to the billing rate structure, along with recommendations for the monitoring of the City’s future utility billings; and a written initial analysis report of the past two years of utility bills. We will provide our draft reports within two weeks of completion of the internal audit field work and discuss with the appropriate City staff. We expect to issue our final report within two weeks of our discussion about the draft report and provide any additional copies the City requests. In addition, we will also make an immediate, written report of all irregularities and illegal acts or indications of illegal acts of which they become aware to the Administrative Services Director and City Manager and City Attorney.

Project Methodology

Moss Adams provides a holistic approach to local government internal audit services. We pride ourselves on not only leveraging best practices, but also serving as a source of best practices. Below please find a description of our overall service strategy, approach to individual internal audits, impacts you can expect to realize as a result of our services, innovations we bring to the internal audit landscape, and our approach to quality control. We believe each of these characteristics of our work plan represent competitive advantages and some of the reasons other cities retain Moss Adams as their internal auditor.

We provide internal audit services in accordance with industry standards. Internal controls are in place so we can deliver high quality, defensible products for all internal audit engagements. Some of those controls include:

- **Independence** – Moss Adams accepts engagements carefully and assigns teams with equal care to make sure that no external, personal, or organizational impairments exist to our work.
- **Professional Judgment** – Moss Adams uses careful planning to determine the type of assignment to be performed and the standards that apply to the work. This includes defining the scope of work, selecting a specific methodology, determining the type and amount of evidence to be gathered, and choosing tests and procedures. Professional judgment is also demonstrated by an attitude of professional skepticism, which includes a questioning mind and a critical assessment of evidence. Our standards of professional judgment demonstrate experience and integrity in the performance of audit engagements.
- **Competence** – The proposed staff for our engagements are well-qualified. Moss Adams has a rigorous continuing professional education program so that all staff who conduct internal audits

meet the GAO-specified requirements for education. Our government industry group sponsors an annual education forum, which includes training in relevant areas such as the Generally Accepted Government Audit Standards (GAGAS) standards, Governmental Accounting Standards Board (GASB) and other public finance standards, Institute for Internal Auditors (IIA) standards, American Association of Certified Public Accountants (AICPA) consultancy standards, and firm auditing practices. In addition to rigorous continuing professional education (CPE), our proposed staff members work in a supervised environment, which fosters the development of experience and professionalism.

- **Quality Control and Assurance** – Moss Adams has a rigorous process of internal quality control and supervision. All audit engagements are assigned to a qualified engagement manager. All deliverables, including work papers, findings, recommendations, and final reports are processed through a critical concurring review process. In addition to these regular quality control and assurance controls, Moss Adams participates in a regular external peer review process.

Our approach to projects encompasses planning, surveys, on-site fieldwork, interviews, documentation of evidence to support findings, analysis of options, recommendations, and high-impact reporting that typically includes implementation plans. Our typical project approach is conducted through the following four major phases: 1. Start-up/Management; 2. Fact Finding; 3. Analysis; and 4. Reporting.

We will provide the City with tools that center around delivery of outstanding service and are focused on application of best practices. You will benefit from our experience with many other governmental entities, which will enhance our ability to provide practical solutions that will be of specific benefit to you.

A cornerstone of our role as internal auditors is a collaborative mindset. That means we will work closely with City staff and consultants to gain their insights, verify facts, test the practicality of recommendations, and deliver services that will benefit the City. In addition, we believe in no surprises. A commitment to ongoing collaboration will make the City well aware of our findings and recommendations before they are formally presented in final report format.

Each of the four phases that comprise our work plan for enterprise risk assessments and internal controls reviews are described in more detail below.

1. START-UP/MANAGEMENT

At project initiation, we will confirm the City's expectations, project timing, deliverables, and outcomes.

1.1 Initiate Project

We will conduct a kickoff meeting with the City's project director, and others as determined by the City, to confirm expectations and discuss overall project scope, logistics, deliverables, timing, and progress reporting requirements. We will clarify the responsibilities of Moss Adams and City personnel (e.g., providing requested documents and scheduling interviews), timing of specific project activities, and format of each required deliverable.

As part of project initiation, we will conduct a risk assessment to inform our audit plan. We will establish clear audit objectives. Also, we will develop an interview list and finalize our approach to each phase.

1.2 Perform Project Management

We will conduct rigorous project management activities for the duration of the engagement. These activities will include providing guidance to the consulting team; coordinating with the City's project director; working issues and solving problems; monitoring progress against the approved work plan; and developing, submitting, and discussing progress reports with the City's project director. Progress reports will be provided at the frequency requested by the City's project director.

1.3 Provide Quality Assurance

We believe it is important to recognize the need for quality by delivering excellent client service and engagement oversight. All deliverables will receive a quality review before submittal to the City.

Phase 1 Deliverables	<ul style="list-style-type: none">• Final work plan and audit objectives• Interview list• Progress reports
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2. FACT FINDING

This task encompasses fieldwork, including document review, interviews, walk-throughs, and an online survey, as well as the development of preliminary findings based on the results of fieldwork.

2.1 Review Documents

We will gather relevant documentation for review. Examples include recent external financial audits, prior utility billing reports, utility bills, customer relevant policies and procedures, and systems documentation. The objectives of documentation review include gaining a sufficient understanding of the environment, further defining issues and surrounding facts, and gaining insights to prepare for interviews. Specific steps include developing a document request list, coordinating document receipt and review, and developing questions for use during interviews.

2.2 Conduct Interviews and Walk-Throughs

We will conduct interviews at multiple levels within the City to understanding current operations and identify opportunities for improvement. We will work with the City's project director to schedule interviews. Confidential one-on-one interviews will be conducted with all 12 members of the Utility Billing Division, as well as key customers of the Utility Billing Division, such as stakeholders from the Administrative Services Department, Finance Committee, and City Council.

As part of these interviews, we will also perform process walk-throughs with personnel from the Utility Billing Division. Walk-throughs are roving interviews whereby we will learn about the details of relevant processes, such as cash handling and use of the Divisions various billing applications and financial system (Superior). Walk-throughs will also allow us to make initial observations to identify important questions and issues that require follow up. Once completed, each walk-through will provide an effective means to gain further depth of understanding of fraud risks.

2.3 Administer Online Survey

In addition to interviews and walk-throughs, our fact finding process may include a brief survey via use of a robust web-based tool. The confidential, online survey will enable us to cost-effectively reach a broader audience within the City and gain additional insights.

2.4 Prepare Preliminary Findings

Based on the information we obtain through document review, interviews, walk-throughs, and the online survey, we will document our preliminary findings in the form of "conclusive facts" in our

initial analysis report. Covering the past two years of utility bills, the report will be written by 1) documenting the condition or key issue, 2) defining the impact on the organization, and 3) defining analysis required to formulate recommendations.

2.5 Present Preliminary Findings

We will present preliminary findings to the City. The purpose of sharing preliminary findings is to verify facts to make sure the basis for each finding is accurate and valid and preview findings to avoid surprises and set the stage for analysis. Findings will form the basis for analysis of opportunities for improvement.

Phase 2 Deliverables	<ul style="list-style-type: none">• Document request• Preliminary findings
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3. ANALYSIS

This task will determine the significance of issues and how best to address them.

3.1 Perform Analysis

Based on findings, we will evaluate controls and practices related to the areas of focus for each audit. Our audit will address each of the following area of focus:

- Examine all cash, check and credit transactions of the Banning Electric Utility and determine whether all customer cash payments are fully accounted for
- Identify the amount of electricity purchased by the utility in a given year, and compare it to the amount of electricity sold to customers during that year
- Identify all dwellings in the City that receive utilities but are not billed or are partially billed and identify the retail value for each of those transactions
- Examine random samples of electric utility bills for billing accuracy, rate structure, and consistency
- Examine if electric utility usage was manually lowered in individual cases
- Identify charges billed for incorrect or non-existent equipment

We will develop a specific audit approach for each of the aforementioned areas of focus. Our audit plan will delineate our audit methodology for each area, including sampling and testing parameters and procedures of electric accounts, based on our risk assessment and consideration of 10 power suppliers, 7 rate structures, and 31 billing cycle routes.

3.2 Perform Gap Analysis

We will identify differences between current City policies, processes, procedures, and other controls and appropriate best practices to define gaps that should be addressed. Gap analysis will focus on what actions could be taken to close those gaps.

3.3 Conduct Alternatives Analysis

For each major opportunity for improvement, we will conduct alternatives analysis in an abbreviated cost-benefit format. Each alternative will be scrutinized for pros, cons, resources, budget, training, and risks, if relevant. The results will directly feed into our recommendations.

3.4 Prepare Draft Findings and Recommendations

Based on our analysis, we will update findings and prepare recommendations. Recommendations will focus on implementing appropriate actions aimed at strengthening internal controls, reducing risk, and enhancing performance. For instance, we will provide recommendations for implementation of new processes or remediation of existing practices to address improvement opportunities.

3.6 Present Draft Findings and Recommendations

We will present draft findings and recommendations to the City. The purpose of sharing draft findings and recommendations is to give the City a chance to preview and test the practicality of recommendations and, again, avoid surprises.

Phase 3 Deliverables	<ul style="list-style-type: none">• Draft findings and recommendations
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4. REPORTING

This task will encompass development of draft and final reports, including an audit plan.

4.1 Submit Draft Report

Our work will be packaged in a draft report for review by the City. The draft report will include the necessary level of detail to allow the document to stand on its own. The report will integrate the study components and include executive summary; study objectives, scope, and methodology; and findings and recommendations.

4.2 Submit Final Report

Based on feedback from the City, we will revise the draft report and submit our final report.

4.3 Present Final Report

We will present the final report to the City Council. We will prepare a presentation to facilitate these briefings.

Phase 4 Deliverables	<ul style="list-style-type: none">• Draft and final reports• Report presentation• Internal audit plan
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Schedule

Internal audits of this nature typically take approximately three to four months to complete from project start-up to delivery of the final report. The overall timing will depend on the availability of key City personnel and the general timing of this work in relation to other relevant work impacting the City. We can be flexible regarding the project start date. We understand that the City desires to initiate the project within a month of contract award and complete the project within three to six months. We do not anticipate any issues with these timing expectations.

Phase	Month 1	Month 2	Month 3	Month 4
1. Start-Up/Management				
2. Fact Finding				
3. Analysis				
4. Reporting				

Staffing

STAFF QUALIFICATIONS

We take great pride in the experienced staff we assign to our internal audit engagements. New clients, as well as our long-time clients, regularly compliment our staff on their industry knowledge and practical approach. Your internal audit service team will provide expertise relative to internal controls audits, fraud audits, performance audits, revenue enhancement audits, and compliance audits, as well as risk assessments. Some of the current clients for whom we are providing similar services include City of Culver City, City of Modesto, City of Redondo Beach, City of San Jose, City of Santa Monica, City of Santa Rosa, and City of Stockton.

The breadth and depth of our proposed team gives us the ability to staff projects in a timely manner. In addition, we have a firm-wide government team to draw from should additional needs arise that require particular skill sets. Our proposed team is listed below, including our team members, their roles in the firm, and proposed project roles. Detailed resumes for each team member are provided on the following pages.

Team Member	Firm Role	Project Role
Mark Steranka	Partner	Quality Assurance
Greg Damon, CISA, CRISC	Senior manager	Utility Billing SME
Colleen Rozillis, PMP	Senior manager	Project Manager
Stephen Bacchetti, CPA, CIA	Manager	Lead Analyst/Auditor
Scilla Outcault, CFE	Manager	Lead Analyst/Auditor
Tammy Lohr	Senior consultant	Audit Support
Lawrence Stepovich, CPA	Senior consultant	Audit Support



Professional Experience

Mark offers over 30 years of audit and consulting experience. He has worked extensively with local and state governments throughout the western United States to evaluate risks; operational economy, efficiency, and effectiveness; internal controls; and compliance with requirements. Engagements he has managed have ranged in size from \$25,000 to \$1 million and have addressed compliance, finance, fraud, governance, management, operations, organization, policies, procedures, and processes. He serves as the internal auditor and project manager for engagements with Carson City, Culver City, Modesto, Redondo Beach, Santa Monica, and Stockton. Mark has performed assessments and other consulting services for clients such including the following:

- **States:** Alaska, California, Idaho, Oregon, Washington
- **Counties:** King, Pierce, San Juan, Snohomish, Sonoma
- **Cities:** Anacortes, Burien, Carson City, Culver City, Edmonds, Lynnwood, Issaquah, Modesto, Portland, Redondo Beach, San Jose, Santa Monica, Santa Rosa, Stockton, West Richland
- **Special Purpose Districts:** Community Transit, Lake Stevens Sewer District, North Perry Water District, Richland School District; Santa Clara Valley Water District, Snohomish County PUD No. 1, Tacoma Department of Public Utilities

Mark is experienced reporting to boards, commissions, committees, councils, and executive management and working with citizen committees and stakeholder groups. He is also well versed in designing and facilitating meetings, focus groups, and customer surveys.

Professional Affiliations and Certifications

- Member, Institute of Internal Auditors

Education

- Executive management program, University of Washington
- BS, mechanical engineering, University of Notre Dame



Professional Experience

Greg has over 19 years of experience providing a variety of business consulting, IT auditing and compliance, and technology consulting services. Business consulting services include organizational assessments, performance audits, workflow process reengineering and development, and efficiency and effectiveness studies. He regularly works with client staff and management to understand business, financial, and technology needs and assess performance against plans, goals/objectives, and best practices. Greg has successfully assisted numerous clients with identifying and implementing improvement opportunities in processes and workflows as well as management and use of technology.

Greg also provides expertise in utility billing having assessed multiple utility billing organizations, such as the City of Modesto and City of Roseville. He has industry specialization with state and local governments, special purpose districts, and utilities, as well as retail and apparel clients.

Professional Affiliations and Certifications

- Member, Information Systems Audit and Control Association
- Board member and membership director, Willamette Valley Chapter, ISACA
- Certified Information Systems Auditor (CISA)
- Certified in Risk and Information Systems Control (CRISC)

Education

- MBA, information systems and accounting, University of Washington
- Certificate of environmental management, University of Washington
- BA, history, Colorado College



Professional Experience

Colleen has over twelve years of experience advising local, state, and tribal governments and not-for-profits to improve operations and efficiency by assessing organizational and program effectiveness, and developing and refining performance and level-of-service measures. She works collaboratively with clients to understand their goals and objectives; develop policies, processes, and tools; and define organizational and programmatic changes to better equip and position them to achieve their goals and objectives. Her areas of expertise include:

- Performance assessment and measurement
- Business process reengineering
- Organizational assessment
- Strategic planning
- Policy development
- Decision-maker strategic communications and reporting
- Performance metric development and reporting
- Best practices benchmarking
- Competitive analysis

Colleen has worked with a wide range of state and local agencies conducting strategic planning, policy analysis, and internal and performance audit engagements. Her government experience includes planning, policy, and financial analysis in Alaska, Arizona, California, Colorado, Texas, and Washington. Current internal and performance audit clients include the cities of Carson City, Modesto, and Stockton.

Professional Affiliations

- Project Management Professional (PMP)
- Member, Project Management Institute
- Member, Institute of Internal Auditors
- Member, International City & County Management Association
- Treasurer and board trustee, Humanities Washington

Education

- MS, public policy and management, Carnegie Mellon University
- BA, English and political science, University of Michigan



Professional Experience

Stephen has over eight years of accounting, auditing, and financial reporting experience. He specializes in performing construction audits and conducting assessments that evaluate the design and operating effectiveness of internal controls over core processes and controls required to comply with contract billing requirements.

Prior to joining Moss Adams, Stephen served as a global accounting manager for Vanguard Logistics Services, where he was responsible for preparing the company's global monthly and year-end financial packages in accordance with International Financial Reporting Standards (IFRS). He was also a senior accountant at Charles Pankow Builders Ltd. where he prepared, reviewed, and analyzed quarterly consolidated financial statements and supporting workpapers in accordance with generally accepted accounting principles (GAAP).

Professional Affiliations

- Certified Public Accountant (CPA)
- Certified Internal Auditor (CIA)
- Member, American Institute of Certified Public Accountants
- Member, California Society of Certified Public Accountants
- Member, Institute of Internal Auditors

Education

- BS, business administration, accounting, California State Polytechnic University



Professional Experience

Scilla has over 10 years of experience in internal, operational, and performance audits with an emphasis on internal controls, mitigating fraud risks, and contract compliance. When conducting performance reviews, Scilla is committed to accurately evaluating efficiency and effectiveness as well as providing clients with valuable recommendations. She has performed numerous internal audits in which she has evaluated the design and operating effectiveness of internal controls over a variety of business processes, including revenue and cash handling, accounts payable, purchasing, and grants management.

Scilla is experienced performing complex analyses and developing strategic solutions for clients in the government and nonprofit space. In addition to performance auditing, she also has experience with forensic accounting, process improvement, performance measure development, strategic planning, policy and procedure development and implementation, and project management. Prior to joining Moss Adams, Scilla held roles as an audit evaluator in the California State Auditor's Office and as a business analysis consultant for the California Chamber of Commerce.

Professional Affiliations

- Certified Fraud Examiner (CFE)
- Member, Association of Certified Fraud Examiners
- Member, Institute of Internal Auditors

Education

- MBA, entrepreneurship and organizational behavior, University of California, Davis
- BA, international relations and Spanish, Tufts University



Professional Experience

Tammy offers a strong background in assessing performance and developing policies and procedures to improve operations for government and not-for-profit organizations. She specializes in conducting operational and program performance audits, including under GAGAS standards. Tammy also brings experience identifying process improvements to increase efficiency, drafting supporting documentation and audit reports, verifying deliverables meet professional audit and reporting standards, and writing policies and procedures to verify accountability to standards.

Tammy served as the lead analyst on a recently completed workforce diversity study for the City of Stockton. Tammy's current clients include Carson City, Modesto, Sonoma County, Santa Clara Valley Water District, Pepperdine University, and Concordia University. Prior to joining Moss Adams, she worked as a performance auditor for the Washington State Auditor's Office.

Professional Affiliations

- Member, Institute of Internal Auditors
- Board member and student liaison, American Society for Public Administration (Evergreen chapter)
- Member, International City & County Management Association

Education

- MPA, Daniel J. Evans School of Public Affairs, University of Washington
- BA, public health, University of Washington



Professional Experience

Lawrence’s responsibilities include conducting construction audits for the education, health care, infrastructure, and commercial real estate industries. He also helps provide clients in a diverse group of industries with a variety of federal contract compliance services.

Prior to joining Moss Adams, Lawrence held the position of New Venture Consultant with FXT Concrete/LB Foster, where he developed feasibility studies and break-even analyses. Lawrence has performed charitable work with the Volunteer Income Tax Assistance program and Monroe Catholic Schools in Fairbanks, Alaska.

Professional Affiliations

- Certified Public Accountant (CPA)
- Member, Institute of Internal Auditors

Education

- BBA, accounting and economics, Gonzaga University

Qualifications

FIRM BACKGROUND

Moss Adams is a fully integrated professional services firm dedicated to growing, managing, and protecting prosperity. With over 2,900 professionals and staff across more than 25 locations in the market capitals of the West and beyond, we work with the world’s most innovative, dynamic, and promising clients and markets. Through a full spectrum of accounting, consulting, and wealth management services, we bring the deep industry specialization and inspired thinking our mid-market clients seek.

Since we put down roots in the Pacific Northwest more than 100 years ago, we’ve steadily expanded to serve clients not only in the West, but also across the nation and globally. Our full range of services includes accounting (assurance and tax), consulting (IT, strategy & operations, transactions, and specialty), as well as individual and institutional wealth management. Moss Adams is one of the 15 largest US accounting and consulting firms and a founding member of Praxity, AISBL, a global alliance of independent accounting firms providing clients with local expertise in the major markets of North America, South America, Europe, and Asia.

GOVERNMENT EXPERIENCE

Moss Adams has a firmwide team of over 180 professionals providing services within a group of specialized practices including governments, higher education institutions, not-for-profits, tribal and gaming entities, energy and utility entities, and federal contractors. The vast majority of these professionals specialize primarily—if not exclusively—in serving tax-exempt entities. This team currently serves almost 1,500 clients throughout the United States and provides more than 250,000

hours of service to those clients each year. You'll receive a more effective audit from our specialized professionals who have a deep understanding of your industry. They have significant experience working with tax-exempt organizations, making them more likely to spot potential problems, create effective solutions, and understand the trends.

INTERNAL AUDIT EXPERIENCE

Our firm's internal audit practice represents a core component of our service portfolio. Our seasoned staff members have significant experience performing audits and other assessments related to compliance, finance, fraud, governance, management, operations, performance, policies and procedures, and technology. We serve clients in government, not-for-profit, and a variety of private sector industries. We have earned recognition and an outstanding reputation for our services based upon a solid track record and discriminating analysis.

Moss Adams has a long history of successful delivery of internal audit engagements for municipal governments. Our internal auditing professionals come from government, private industry, and public accounting and work exclusively on internal and performance audit engagements. Our leadership team is comprised of professionals with more than 25 years average professional experience. Moss Adams' internal audit professionals are thoroughly knowledgeable of local government policies, processes, and procedures. They offer all certifications relevant to the services we may provide in the capacity of internal auditor, including CFE, CIA, CISA, CITP, CPA, and CRMA. Our training requirements for professional auditing and consulting staff further confirm that our knowledge remains current.

Rather than performing engagements for our clients, we team with them to address what is needed to assess risks; improve their economy, efficiency, and effectiveness; strengthen internal controls and compliance with laws and regulations; increase revenues; and prevent and detect fraud. Moss Adams considers the knowledge and guidance we provide to our clients that will allow them to continue to improve their organizations as a very important part of our engagements. Our team will work closely and collaboratively with City management and staff to create a working relationship that will provide maximum benefit to the City.

EXPERIENCE WITH SIMILAR PROJECTS

Moss Adams offers extensive internal audit experience as represented in our featured projects below that reflect some of our recent, relevant internal audit, performance audit, internal controls, and risk assessment experience.

City of Santa Monica
Key Staff: Mark Steranka, Colleen Rozillis, Scilla Outcault, Tammy Lohr
<p>We have been serving as the City of Santa Monica's internal auditor of record since mid-2014. We initiated our services by conducting a comprehensive internal controls review. The results of the internal controls review provided the basis for identifying areas warranting more detailed evaluations of internal controls, such as cash handling, accounts receivable and revenue, P-Cards, and internal controls. In addition, we are performing other projects, such as departmental business reviews to identify opportunities for more efficient and effective operations, strategies for fiscal sustainability, and improvements to internal controls.</p>

City of Stockton
Key Staff: Mark Steranka, Colleen Rozillis, Scilla Outcault, Tammy Lohr
<p>In 2013, we were retained as the City of Stockton’s internal auditor of record. We initially performed an enterprise risk assessment and internal controls review. The results of these two projects provided the basis for the identification of over two dozen projects, which were prioritized and defined to form a two-year audit plan, which was completed and followed by subsequent audit plans and associated projects. We are helping the City to implement a series of projects to improve performance and strengthen internal controls, both of which are essential components of the recovery program. We have also helped to educate the audit committee on its role, develop a committee charter, and provide training to the council, management, and staff.</p>

City of Modesto
Key Staff: Mark Steranka, Colleen Rozillis, Scilla Outcault, Tammy Lohr
<p>We were hired by the City of Modesto in early 2011 to perform a series of high-profile business projects as the City moves to reengineer its processes. Hired as the City’s internal auditor, we have provided performance auditing services regarding organizational reengineering and design. As part of the internal audit program, we conducted an enterprise risk assessment of the City’s operations against best practices and developed a prioritized list of risks and departments/programs with potential for cost savings. Research into cost savings best practices in cities across the country supported these recommendations. To date, we have completed over three dozen projects for the City touching all department and including utility billing, which have provided recommendations for reducing risks, strengthening controls, and improving the economy, efficiency, and effectiveness of operations.</p>

Carson City
Key Staff: Mark Steranka, Colleen Rozillis, Tammy Lohr
<p>We have been serving as Carson City’s internal auditor of record since the beginning of 2012. We initiated our services by conducting a comprehensive risk assessment related to all departments. The risk assessment process provided the City with an important set of benchmarks that guide both policy and process decisions, as well as investments. Based upon the results of the risk assessment, we have been conducting audits of selected departments and programs based on potential risk and return on investment. Each audit is designed specifically to obtain sufficient, appropriate evidence to address audit objectives; identify opportunities for improving economy, efficiency, and effectiveness; and provide a return on investment. We have completed over two dozen projects, including establishing a fraud, waste, and abuse program and developing departmental performance metrics to support performance-based budgeting.</p>

City of San Jose
Key Staff: Mark Steranka, Colleen Rozillis, Scilla Outcault
<p>We were retained by the City of San Jose to perform a financial internal controls and organizational structure review of the financial functions within the City. The purpose of the review was to conduct a comprehensive study of the City’s organizational structure for finance functions and recommend actions that will improve the efficiency and effectiveness of the City’s internal controls</p>

City of San Jose
Key Staff: Mark Steranka, Colleen Rozillis, Scilla Outcault
<p>based on best practices. Findings and recommendations focused on internal controls relative to accounting and financial reporting within the finance department and all other departments. Our work also addressed organizational structure, service levels and resources, centralization versus decentralization, policies and procedures, and technology. The results directly translated into a work plan for strengthening the internal controls environment through the development of financial policies and procedures.</p>

City of Portland
Key Staff: Mark Steranka, Greg Damon, Colleen Rozillis
<p>At the request of the Mayor, we performed a comprehensive organizational assessment of the Office of Management and Finance (OMF), which includes all support functions for the City (i.e., accounting, finance, HR, IT, risk management, procurement, revenue, treasury, fleet, printing, and facilities). This office has over 600 employees. Opportunities for improvement covered by our findings and recommendations addressed organizational structure roles and responsibilities, management tools, customer service philosophy, communication, and internal controls.</p>

City of Roseville
Key Staff: Mark Steranka, Greg Damon, Colleen Rozillis
<p>We conducted a utility billing best practices and industry trends project for the City of Roseville. This engagement was in preparation for replacing its aging CIS used to manage billings for its electric and environmental utilities. The City’s Utility Billing divisions include finance, environmental utilities (water, wastewater, solid waste, and recycled water), and electric departments. The objectives of the project were to study the City’s current utility billing practices and recommend actions for improving current business practices by incorporating efficiency improvements and industry trends. Further, in preparation for a CIS replacement, the City was looking to review the current business processes for utility billing in order to consider and account for efficiencies and trends in that effort. The project team identified 19 processes related to the utility billing service areas listed above, with the goal of analyzing each to establish an understanding of the current processes and develop a foundation for comparative analysis. For each process identified, the project team sat with the process owners to walk through the process, identify how systems were utilized in support of the process, and understand where gaps existed between current/future needs and existing system capabilities. Research on industry standards and trends was conducted to allow for comparison of current practices to standards and trends, with the final objective being to identify opportunities for achieving operational efficiencies and customer service improvements. The comparative analysis between current practices and industry standards and trends resulted in the development of a series of recommendations aimed at improving processes and aligning them with best practices. For each recommendation, preliminary implementation steps were identified along with any potential risks associated with their implementation. Steps to mitigate the identified risks were also defined along with a listing of potential costs and benefits associated with implementing the recommendations. In addition, detailed requirements associated with the improvement opportunities were listed in anticipation of incorporating them into the eventual solicitation.</p>

Pacific Northwest Generating Cooperative
Key Staff: Greg Damon
<p>PNGC is a Portland-based utility that buys and remarkets power around the northwest. The Cooperative is owned by and interfaces with 15 utility cooperatives throughout Oregon and Idaho. As part of our ongoing work with the utility, Moss Adams assisted in supporting development of PNGC's initial CIS system. This system accounts for customer unit utilization and tracks and bills power utilization. The system is moderately complex as it interfaces with the BPA's systems and other satellite systems. Our team not only assisted in the development efforts, but also provided QA over PNGC's technology staff as they continued with further development. As this system was initially meant to provide an interim solution as PNGC began its operations, Moss Adams provided additional services with respect to market analysis and systems selection efforts to seek out an off-the-shelf option. Due to the unique nature of PNGC's billing requirements, a suitable replacement was not identified for procurement. We assisted the cooperative in identifying and analyzing alternatives and the organization made the decision to re-develop the interim solution into a more permanent solution built upon more robust technologies. Moss Adams provide project oversight and quality assurance and assisted with requirements definition, risk management, and documentation development.</p>

REFERENCES

Below please find references for three clients for whom we provided similar services. We encourage you to contact these references for feedback about the breadth, depth, and quality of our services, our collaborative approach, and the level of client satisfaction.

CITY OF MODESTO	Joe Lopez Acting City Manager	(209) 577-5402 joelopez@modestogov.com
January 2011 to present: <i>Internal and performance audit services, including utility billing</i>		
CITY OF ROSEVILLE	Monty Hanks (Former) City Finance Director (Current) CFO – NCPA	(916) 781-4244 monty.hanks@ncpa.com
October 2011 to October 2014: <i>various projects for City utilities</i>		
PACIFIC NORTHWEST GENERATING COOPERATIVE	Jon Wissler Chief Financial Officer	(503) 288-5544 jwissler@pngcpower.com

January 2014 to April 2014: *Various billing system projects*

Financial Capacity

Moss Adams is in a solid financial position with sufficient working capital to meet its existing and future liabilities. Our firm's executive committee and partners have a long track record of sound financial management and are dedicated to looking after the financial integrity of the business. We have over 320 partners and approximately 2,900 personnel, and annual revenues in 2016 were \$527 million. As a private partnership, we don't disclose detailed financial data. To further demonstrate

our financial capacity and stability, we can provide our most recent Dun and Bradstreet report at the City's request.

As with any large firm, Moss Adams is occasionally involved in addressing legal and regulatory issues. However, no action, suit, proceeding, inquiry, or investigation before or by any court or federal, state, municipal, or other government authority is pending, or to our knowledge is threatened against Moss Adams, related to or which would have a material effect upon the services contemplated herein.

Disclosure

Before accepting any new engagement, we conduct a thorough check throughout our firm to make sure there are no conflicts of interest or independence issues. This procedure complies with the independence requirements of all regulatory agencies. If selected as your internal auditor, we'll maintain and monitor our independence and reassess our independence with respect to your organization on an annual basis. At the time of this proposal, Moss Adams has no known relationships with any current City elected official, appointed official, City employee, or family member of any current City elected official, appointed official, or City employee.

Exceptions to Sample Agreement

This proposal is contingent upon completion of the Moss Adams new client acceptance process and negotiation of a mutually acceptable contract. With regard to the terms and conditions set forth in the RFP and the sample agreement ("SA")¹, Moss Adams suggests: (i) clarifying access requirements, including access shall not include systems of facilities housing confidential or proprietary information of Consultant or Consultant's other clients and/or limiting access to fees and expenses charged (RFP Scope §D, SA §15); (ii) providing for representations in lieu of warranties (SA throughout); (iii) clarifying City's ownership of final deliverables vs. Consultant's ownership of working papers, works in progress, and general skills and know-how (SA §11); (iv) focusing indemnification and clarifying obligations (SA §12); (v) clarifying insurance requirements to comport with existing policies, including non-ownership of vehicles, additional insureds are added via blanket endorsement and are not added to professional liability, primary and non-contributory requirements do not apply to professional liability, notification only goes to primary insured, and providing for confidentiality of insurance structure including retentions and deductibles (SA §17); (vi) following the America rule on attorneys' fees (SA §32); and (vii) addressing mutual limitations of liability (new).

Additionally, pursuant to professional standards and firm practice, we would expect to confirm our understanding of each engagement on an annual basis in the form of an engagement letter outlining the scope of work and obligations/responsibilities specific to that year's services. We have successfully signed professional services agreements with thousands of clients, including many cities and municipalities, and we commit to working in good faith to successfully negotiate a mutually agreeable contract on a timely basis should we be awarded this work.

¹ These exceptions apply to equivalent provisions throughout the RFP and sample contract.

EX PARTE COMMUNICATIONS CERTIFICATION

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning the RFP No. 17-105 – Internal Audit Services RFP at any time after January 2, 2018.

Mark Steranka

OR

I certify that Proposer or Proposer's representatives have communicated after January 2, 2018 with a City Councilmember concerning the RFP No. 17-105 – Internal Audit Services RFP. A copy of all such communications is attached to this form for public distribution.

Line Items for Project Internal Audit Services (17-105)
 Issued on 01/02/2018
 Bid Due on January 26, 2018 10:00 AM (Pacific)
 Exported on 01/08/2018

Item Num	Section	Item Code	Description	Unit of Measure	Quantity	Amount
1	Partners		Standard Rate	Hourly	1	\$ 350.00
2	Partners		Overtime Rate	Hourly	1	\$ 350.00
3	Managers		Standard Rate	Hourly	1	\$ 300.00
4	Managers		Overtime Rate	Hourly	1	\$ 300.00
5	Supervisory Staff		Standard Rate	Hourly	1	\$ 250.00
6	Supervisory Staff		Overtime Rate	Hourly	1	\$ 250.00
7	Staff		Standard Rate	Hourly	1	\$ 200.00
8	Staff		Overtime Rate	Hourly	1	\$ 200.00
9	Additional Fees		Transportation	Per Mile	1	\$ 0.545
10	Additional Fees		Airfare	Each	1	\$ 300.00
11	Additional Fees		Lodging	Each	1	\$ 200.00
12	Additional Fees		Meals	Each	1	per diem
13	Additional Fees		Rental car	Each	1	\$ 50.00

Please note that total expenses typically equal 10% of professional fees.

DISCLOSURE OF GOVERNMENT POSITIONS

Each Proposer shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

None.

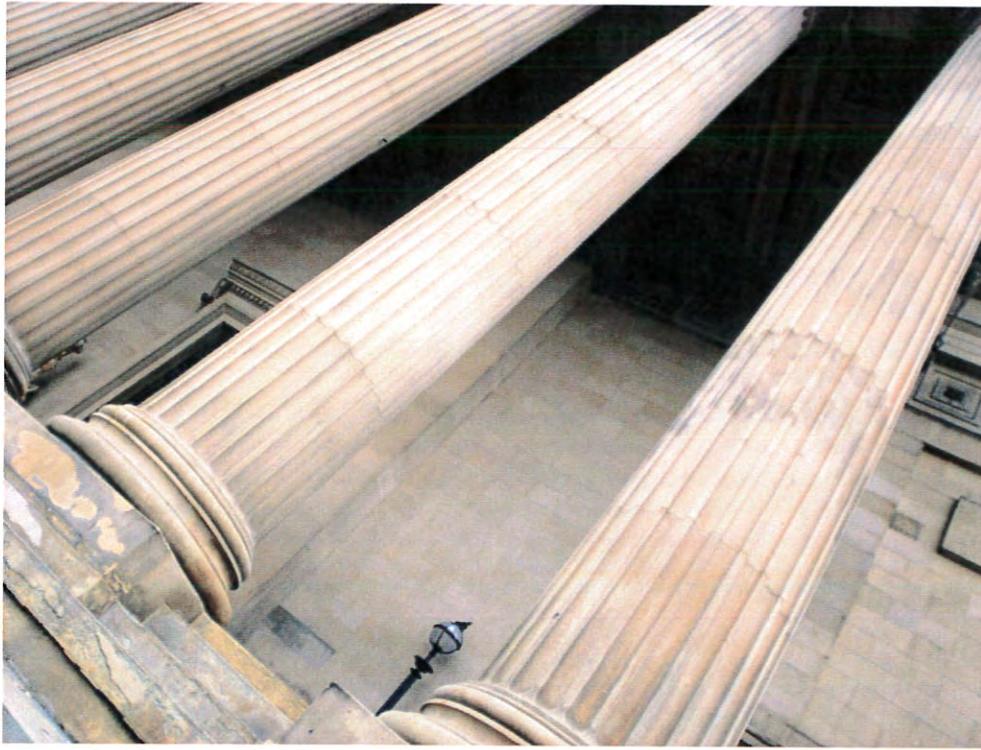
DISQUALIFICATIONS QUESTIONNAIRE

The Consultant shall complete the following questionnaire:

Has the Consultant, any officer of the Consultant, or any employee of the Consultant who has proprietary interest in the Consultant, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes _____ No

If the answer is yes, explain the circumstances in the following space.



**BENEFITING FROM A
COORDINATED INTERNAL
AUDIT APPROACH WITH
PRACTICAL, RELEVANT ADVICE**

CITY OF BANNING

BKD^{LLP}
CPAs & Advisors

January 24, 2018

Ms. Jennifer McCoy

Purchasing
City of Banning
99 East Ramsey Street
Banning, CA 92220

DEAR MS. MCCOY:

The City of Banning (the City) is mindful of those you serve—the thousands of residents who live, work and raise families in Banning. Preserving public trust is an important consideration and is dependent upon your ability to maintain appropriate billing rates, build strong internal controls and procedures and effectively identify and prevent fraud. Obtaining quality internal audit services from a reputable CPA and advisory firm with a relevant blend of municipality and utility experience can help offer the peace of mind you seek. With our significant industry and internal audit expertise, we believe **BKD, LLP** is that firm.

As many cities focus on refining and improving their governing structures, understanding various organizational risks and implementing an effective internal control framework can be a challenge. BKD's Enterprise Risk Solutions division combines a depth of firmwide industry experience and familiarity with the specific issues the public sector faces with specialized internal audit and data analytics resources to deliver forward-thinking solutions. Our tested methodologies are designed to identify areas of potential improvement while offering practical guidance to help you strengthen your operational functions. Moreover, our accessible advisors are committed to **The BKD Experience** of unmatched client service and are available year-round to answer questions, offer strategic advice and help the City implement recommendations.

This proposal contains responses to the sections outlined in the City's Request for Proposal, including information related to the firm's background, project methodology, staffing, qualifications, financial capacity, fees and forms required by the City. As a partner of the firm, Keith Galante is authorized to bind the firm. This proposal is valid for 180 days. This project will be managed from our Denver, Colorado, office, which is our office nearest to Banning, and the address and telephone number are included above.

We believe our proposal will help you select our firm for timely, efficient and objective services delivered by experienced professionals. If you have questions about this proposal, you may reach us at 303.861.4545 or by email as provided below.

Sincerely,



Keith T. Galante, CPA
Partner
kgalante@bkd.com



Adam C. Rouse, CFE, CCA, CCP
Managing Consultant
acrouse@bkd.com

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For your convenience, **BKD, LLP** has structured our proposal according to the requirements in the City of Banning's (the City) Request for Proposal (RFP). We believe our proposal will demonstrate our qualifications to serve the City.

EACH PAGE WITH INFORMATION CONTAINED IN BKD'S RFP RESPONSE, WHICH IT ASSERTS AS CONFIDENTIAL, IS EITHER BUSINESS AND/OR PROPRIETARY TRADE SECRET INFORMATION NOT SUBJECT TO DISCLOSURE AS SET FORTH IN THE CALIFORNIA PUBLIC RECORDS ACT, AND SHALL BE DESIGNATED AS CONFIDENTIAL.

BACKGROUND & PROJECT SUMMARY SECTION

The Background and Project Summary Section should describe your understanding of the City, the work to be done, and the objectives to be accomplished. Refer to Scope of Work of this RFP.

UNDERSTANDING OF THE CITY

Governmental entities face increasingly difficult regulatory requirements and are exposed to significant scrutiny from bond investors, granting agencies and the public. Therefore, maintaining strong internal controls and safeguarding the City's assets are critical to demonstrating your transparency, accountability and capacity to provide cost-effective services that meet the needs of your citizens. It is important to work with a skilled CPA and advisory firm that can help you analyze essential areas and identify potential risk while providing proactive steps to help mitigate those risks. With significant municipality, utility and internal audit experience, we believe BKD has the resources and expertise needed to help the City have confidence in the security and effectiveness of your financial operations.

We will not claim to know your organization as well as you do. However, we will seek to develop an understanding of the City's needs and draw upon our experience gained from our work with approximately 500 governmental entities nationwide to provide focused solutions.

THE CITY'S OBJECTIVES

We understand the City is seeking internal audit services to review the existing procedures, controls and transactions within your electric utility division and to obtain recommendations for improvement.

You also want:

- ▶▶ Objective advice and strategies to help you maintain sound internal controls and remediate risk surrounding your cash handling, billing and electric utility usage reporting and procedures
- ▶▶ A review of your utility billing division to help identify areas vulnerable to fraud, correct potential weaknesses and strengthen fraud prevention processes
- ▶▶ Advice concerning the City's billing rate structure to help identify whether rates are appropriate and sufficiently cover the utility's costs

BKD's commitment to the City does not end when the internal audit is completed—we want to be the advisor you can count on to remain in touch with you throughout the year. Our responsive service approach goes beyond simply issuing the required report to include helping the City create realistic, actionable plans to implement relevant recommendations while preparing for challenges yet to be seen. Taking initiative, proactively bringing new solutions and keeping you apprised of what you need to know are hallmarks of our unmatched client services standards and what the City can expect of BKD from day one.

WORK TO BE DONE

The City has requested information and a fee quote for an Internal Audit of the City's Administrative Services Department – Utility Billing Division.

Please see the following Methodology Section for a detailed explanation of our internal audit service approach.

METHODOLOGY SECTION

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. The Methodology Section should include:

1. An implementation plan that describes in detail (i) the methods, including controls by which your firm or entity manages projects of the type sought by this RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.

INTERNAL AUDIT

Internal audits help test whether organizational policies and procedures are being followed consistently and whether an organization's risks are adequately mitigated. BKD's internal audit approach can help identify potential concerning areas/areas of operations that could become more efficient and better controlled. To help improve internal audit quality and keep costs down, we will work with you to include only project items applicable to you.

BKD uses industry standard frameworks, such as The Institute of Internal Auditors (IIA), American Institute of CPAs (AICPA) and the United States General Accounting Office's Government Audit Standards (GAGAS), along with other established methodologies, to align specific processes with industry best practices. BKD works to evaluate the risks with the client's goals in mind and makes it a priority to consider the big picture. As risk managers, we strive to identify the critical elements affecting our clients' internal control environment and operations, and to build a working relationship based on trust and working toward common goals of security, sustainability and success.

If we encounter fraud or potential fraud, including any illegal activities, we will promptly report this information to the administrative services director, city manager and city attorney.

PHASE 1: PLANNING & TAILORING PROCEDURES

Our procedures will focus on the City's electric utility operations. We will begin by meeting with management to understand their responsibilities, expectations and priorities. We also will begin requesting and gathering documentation to be used throughout the course of this engagement. During the planning phase, we will work to develop a detailed understanding of the City's billing and revenue system (Superion) to assist with our fieldwork in Phase 2.

PHASE 2: FIELDWORK

Based on the schedule, we will kick off the project by notifying the applicable department(s) and will meet with each department to discuss our planning and fieldwork procedures and answer questions.

We also will:

- ▶▶ Leverage existing documentation, if any, to help streamline our procedures, but if documentation does not exist, we will document the business cycles, processes, risks and controls of the in-scope areas
- ▶▶ Identify opportunities to use data analytics in each project versus sampling

The City's proposed engagement team will take the following steps to evaluate the effectiveness of the electric utility's operations:

- ▶▶ Where feasible, we will request information for use in our data mining procedures versus sampling to assess the operating effectiveness of controls
- ▶▶ Obtain support for validation procedures in areas where we may not be able to rely solely on data analytics
- ▶▶ Obtain electric purchase reports and compare to billings
- ▶▶ Analyze a sample of electric utility bills to identify whether those appear accurate
- ▶▶ Analyze a listing of manual (use and dollar) adjustments
- ▶▶ Discuss and vet any potential control deficiencies with management throughout the project
- ▶▶ Formulate recommendations to address agreed-upon control deficiencies

PHASE 3: REPORTING

After completion of each project, we will deliver a draft report for management's review. Throughout the internal audit process, we will work with management to present our findings and resolve inaccuracies prior to finalizing reports. We will prepare a written report summarizing our review of the past two years of utility bills, including process recommendations. We anticipate delivering the draft report within two weeks of completing fieldwork.

Our reports will contain the following information:

- ▶▶ The objective and scope of work performed
- ▶▶ Listing of findings with specific recommendations for improvement
- ▶▶ Recommendations for establishing controls and procedures for employees counting and/or handling cash
- ▶▶ Recommendations for any changes to the billing rate structure and for monitoring utility billing
- ▶▶ Any restrictions your organization requested regarding the scope of procedures

If the City prefers specific content items or a particular report format, we can accommodate requests of this nature.

2. Detailed description of efforts your firm or entity will undertake to achieve client satisfaction and to satisfy the requirements of the “Scope of Work” section.

The key to satisfying the requirements of a project with a variety of deliverables, due dates and responsible parties is effective project management. We understand that your staff needs to focus on their day-to-day responsibilities and that this engagement needs to be as easy and efficient for your people as possible. Therefore, we would implement the following aspects into our management of this project.

PARTNER & MANAGER OVERSIGHT

To deliver unmatched client service, BKD insists on the personal involvement of partners, directors and managers in serving clients. That means face time with you. We have a client service guideline called “On Site = In Sight & Insight,” which simply means we get out of our office and into yours. We have found being on site with our clients results in better information and perspective, which results in more on-point recommendations and solutions for you.

Because of our low partner-to-staff ratio of 1-to-6, services we perform include a higher level of partner involvement compared to other national firms. Ongoing communication, even after fieldwork is completed, is a key component to BKD’s approach to your engagement. The City can have confidence your proposed lead engagement partner and manager are readily accessible and available to discuss the matters important to you, as well as available to attend meetings with the City’s finance committee and city council to discuss internal audit progress, reports and findings.

3. Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion, including a complete transition plan. Include your plan to deal with fluctuation in service needs and any associated price adjustments.

DETAILED PROJECT SCHEDULE

Phase	Proposed Schedule							
	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8
Phase 1: Planning & Tailoring Procedures	✓	✓						
Phase 2: Fieldwork		✓	✓	✓	✓	✓		
Phase 3: Reporting						✓	✓	✓

Please see the Methodology Section for details of the tasks and deliverables to be performed during each of these phases.

TRANSITION PLAN

Our BKD Smooth Transition™ process places a great deal of emphasis on becoming familiar with the City’s team quickly, with little disruption to day-to-day operations. We plan to work with you to develop a tailored transition plan that meets your timing requirements and incorporates the areas you believe may warrant a fresh look. As a result, potential concerns can be identified and resolved efficiently.

Generally, our approach includes the following components:

- ▶▶ Meet with your key management team to further develop rapport and gather initial information about your business structure
- ▶▶ Become acquainted with your staff to address questions about the transition process to help them understand our approach
- ▶▶ Schedule an early planning session with appropriate personnel to obtain their input in developing an efficient and tailored service approach
- ▶▶ Determine the level of assistance your staff can provide
- ▶▶ Develop appropriate timetables for performing our services, reviewing and approving our deliverables and meeting with the board and/or audit committee

FLUCTUATION IN SERVICE NEEDS

We understand the scope of this engagement may need to be adjusted based on the City's specific concerns, risks and evolving service needs. We avoid a one-size-fits-all approach, and we are committed to being flexible. If there are significant changes to the scope that would result in any associated price adjustments, we will meet with you to discuss how these changes will affect your fees.

4. Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.

In working with entities similar to the City, we have developed an efficient approach that helps avoid wasted effort. We plan our work to facilitate client participation to help control costs, reduce unnecessary disruptions and meet deadlines.

The City plays a major role in timely completion of the internal audit. To help our project timeline stay on schedule, we need the City to dedicate a senior member of management to assist BKD with requests and coordination of meetings.

5. Proposers are encouraged to provide additional innovative and/or creative approaches for providing the service that will maximize efficient, cost-effective operations or increased performance capabilities. In addition, the City will consider proposals that offer alternative service delivery means and methods for the services desired.

CONTINUOUS AUDITING & ANALYTICS EXPERIENCE

Most organizations generate massive volumes of business data. With large amounts of information to sort through, a traditional sample-based audit approach can be largely ineffective. Using data analytics, the City can more effectively analyze these data sets for patterns indicative of inappropriate activities. Continuous Auditing & Analytics (CAA) allows you to routinely apply these techniques to your internal audit program. The data analytics professionals in BKD Big Data & Analytics practice can help you develop and implement these techniques for your organization.

Our team includes CPAs, Certified Fraud Examiners, ACL-certified data analysts, certified IDEA data analysts and professionals experienced with Arbutus and Tableau software. Our experience involves providing continuous audit services to clients in various industries, including government, aviation, higher education, retail, manufacturing and distribution. We have honed the procedures used in our practice for more than a decade, focusing on fraud detection and prevention.

BKD Big Data & Analytics professionals help clients decrease the learning curve so they can better implement these techniques to examine revenue, accounts payable/vendor master files, payroll, expense reimbursement and purchasing card data.

SIGNIFICANT KNOWLEDGE OF OPERATIONAL RISK & CONTROL SOLUTIONS

An organization's governance structure is a key aspect to operating effectively and complying with regulatory requirements. Therefore, assessing the composition and effectiveness of your related controls in place to help safeguard your organization from risk is critical.

Located in our offices across the country, BKD's Enterprise Risk Solutions (ERS) division comprises professionals who provide industry-specific assessments and control solutions to help organizations evaluate their infrastructure and processes as they relate to operational, financial and strategic functions. Rather than applying a one-size-fits-all approach, BKD's top-down strategy focuses on tailoring solutions specific to a client's individual needs. Using industry standard frameworks, our proven solutions can help the City address current risks within your organization and align specific processes with industry best practices.

ADDITIONAL SERVICE IDEAS

In addition to the City's requested service, we believe there may be further opportunities to help you improve your compliance, efficiency or bottom line. BKD has an extensive list of other resources and services available to the City, including the following handpicked sample of services that may be relevant for the City:

- ▶▶ Outsourced/Co-Sourced Internal Audit
- ▶▶ Enterprise Risk Management
- ▶▶ Employee Benefit Plan Audit & Consulting
- ▶▶ IT Risk Services
 - Cybersecurity
 - IT Risk Assessments
 - IT Controls Review
 - Penetration Testing
 - Social Engineering
- ▶▶ Construction Audit Services

experience guidance

"The BKD team really took the time to understand the City's problems from the viewpoint of our customers, worked with our own personnel, and developed practical and thoughtful solutions that are addressing some of our most pressing needs. It's clear that they really understand operations. We really couldn't have asked for a better relationship and I am excited about the results we are seeing."

Tim Keane
Commissioner
Department of
Planning and
Community
Development
Atlanta, Georgia

6. Proposers are also requested to identify any City owned facilities or property which Proposer would propose to use or lease, purchase, or rent from the City in connection with the services to be performed, including information about the terms of any proposed lease, purchase or use of such equipment and facilities, and how this proposed structure affects the overall cost proposal to the City, if applicable.

BKD personnel will need a room with tables, chairs and internet connectivity to perform the work. Our teams are most effective and efficient when they are able to work in a shared space, rather than individual offices. We will need space for two to three personnel to work simultaneously.

We do not anticipate leasing, purchasing or renting any City-owned facilities or properties to complete this engagement.

STAFFING

Provide a list of individual(s) who will be working on this project and indicate the functions that each will perform and anticipated hours of service of each individual. Include a resume for each designated individual.

The most critical factor in providing high-quality service is choosing your engagement team. We take team selection seriously and have the appropriate team of advisors to meet your needs.

ENGAGEMENT TEAM FUNCTIONS & HOURS

Engagement Team Member	Functions	Number of Hours
Partner Keith T. Galante, CPA	Engagement Partner & Quality Assurance	4
Director Christie L. Clements, CISA, CRMA®	Engagement Director – Daily Operations	8
Director H. Bryan Callahan, CPA, CFF, CFE, CVA	Data Analytics Director	15
Senior Managing Consultant Thomas N. Haldiman, CPA, CFE	Data Analytics Consultant	75
Managing Consultant Adam C. Rouse, CFE, CCA, CCP	Engagement Manager	100
Consultant Sam Beck	Staff	146
Total Hours		348

Our estimate of hours takes the following into consideration:

- ▶▶ Reviewing two years of electric rates
- ▶▶ Sampling invoices to be reviewed
- ▶▶ Data being provided to BKD in the requested format

Over the course of this engagement, we will evaluate the feasibility of converting the City’s testing procedures into a more data-centric and continuous audit monitoring format. This would allow testing and monitoring to occur on a more frequent and real-time basis. By using data analytics, we are able to cover a larger population using our automated procedures versus the traditional sampling approach.

ENGAGEMENT TEAM EXPERIENCE

BKD has put thoughtful consideration into the following team member selection. Each member of the City's proposed engagement team has extensive experience working with governmental entities. We also have included several Certified Fraud Examiners on the team.



Keith T. Galante, CPA
Partner

Keith is the leader of BKD's Enterprise Risk Solutions division and has more than 20 years of experience. He has overseen numerous internal audit, risk assessment and consulting engagements for organizations across various industries.

Prior to joining BKD, he was the founding president of a regional, Denver-based, internal audit firm where he served as chief audit executive and led internal audit engagements for numerous clients. His prior experience also includes positions at large national and international companies with duties ranging from segment controller, financial and operational auditor, corporate accounting, budgeting, forecasting, financial analysis, process reengineering and project management. He also worked for a large telecommunications company as internal auditor where he performed many international audits on site and remotely.

Keith is a member of the American Institute of CPAs, The Institute of Internal Auditors, Texas State Board of Public Accountancy and Financial Executives International.

He is a 1991 graduate of Elmhurst College, Illinois, with a B.S. degree in accounting and is a 1998 graduate of the Daniels College of Business at University of Denver, Colorado, with a M.S. degree in finance.



Christie L. Clements, CISA, CRMA®
Director

Christie is the East Region leader of BKD's Enterprise Risk Solutions division. She has approximately 20 years of internal audit and risk management experience, including eight years as an internal audit director at a Fortune 40 company. She is responsible for business development and engagement oversight, managing a team of professionals who deliver a variety of risk services across a number of industries, including manufacturing, distribution, retail, higher education, insurance, not-for-profit, municipalities, gaming and logistics.

She has experience working in dispersed and complex environments and is practiced in operational, regulatory, financial, IT and internal controls, often using a data mining and analytics methodology. Her internal control projects have encompassed many areas of operations and IT, including data integrity and warehousing, management reporting, revenue and expenditure cycles, inventory, call center operations, third-party vendor management and governance, contract compliance, IT general controls, enterprise risk governance and systems development life cycles. She is knowledgeable about health care payor and pharmacy operations, regulatory compliance for the Payment Card Industry Data Security Standard, *Health Insurance Portability and Accountability Act of 1996*, *Patient Protection and Affordable Care Act*, Medicaid and Medicare. She also has assisted on legal investigations.

Christie holds Certified Information Systems Auditor (CISA) and Certified Risk Management Assurance™ (CRMA®) designations. She is a member of The Institute of Internal Auditors (IIA), ISACA and is a former Board of Governors member for the IIA Indianapolis Chapter. In addition, she is certified through the IIA as a Quality Assessment Review (QAR) assessor and has performed external QAR assessments of peer internal audit practices.

She is a graduate of the Kelley School of Business at Indiana University, Indianapolis, with a B.S. degree in accounting.



H. Bryan Callahan, CPA, CFF, CFE, CVA
Director

Bryan is a member of BKD's Forensics & Valuation Services division, leads the Big Data & Analytics practice and specializes in providing litigation consulting, fraud investigation and forensic accounting services. He has extensive experience in litigation support and forensic services, including calculations of breach-of-contract damages, lost business value, intellectual property claims, securities litigation, shareholder disputes, post-acquisition disputes, misappropriation of assets and fraudulent financial reporting.

He has performed litigation and investigation services for companies in a variety of industries, including multiple Fortune 500 companies. He has testified as an expert witness both in court and through depositions. Bryan also has served as a neutral party in numerous post-acquisition, business valuation and business interruption disputes.

Bryan has experience with data analysis software for forensic data mining and continuous auditing. He also works with counsel on e-discovery and computer forensic engagements using an array of forensic imaging and analysis tools.

He previously worked in corporate forecasting, planning and analysis for a \$370 million private equity-owned biotechnology company, where he led the companywide annual operating plan, forecasting and reporting processes. He also was responsible for external and board financial materials, decision support and competitive analysis. He also has worked as an auditor with BKD and an international accounting firm.

In addition to being a CPA, Bryan holds the Certified in Financial Forensics (CFF) certification from the American Institute of CPAs (AICPA) and also is a Certified Valuation Analyst (CVA) and Certified Fraud Examiner (CFE). He participates in more than 60 hours of continuing education each year and has attended various valuation, litigation services, damages and fraud courses offered by the AICPA and Association of Certified Fraud Examiners, Inc. (ACFE).

Bryan is a *summa cum laude* graduate of Valparaiso University, Indiana, with a B.S. degree in accounting and management.



Thomas N. Haldiman, CPA, CFE
Senior Managing Consultant

Tom is a member of the Big Data & Analytics practice in the BKD's Forensics & Valuation Services division. He has more than 10 years of experience and has provided fraud investigation, litigation support, profitability analysis, data mining, continuous auditing, complex financial modeling and business valuation services. His experience includes managing large forensic accounting, fraud investigation and data mining projects.

He has provided consulting services to clients in a range of industries and has experience with embezzlement investigations, including a \$1.2-million embezzlement, and litigation support projects involving disputes totaling billions of dollars. Tom has unique experience with ticketing operations and has worked with university and professional sports teams, as well as theater and concert venues, to identify and quantify inappropriate ticket activity and abuse.

Tom has worked with attorneys in a number of areas, including analyzing and quantifying damage claims, aiding with the discovery process and identifying key documents. In addition to managing a large securities litigation support project, he assisted with a litigation support project for the U.S. Department of Justice and a fraud investigation involving the *Foreign Corrupt Practices Act*.

He uses computer-assisted audit tools, such as ACL, i2 Analyst Notebook and Microsoft Access and Excel, for investigation, data mining, profitability analysis and continuous auditing projects. Tom has customized and implemented these tools and trained clients on how to leverage them within an organization, including building dashboards and continuous auditing procedures.

Tom is a member of the American Institute of CPAs, Missouri Society of CPAs, Association of Certified Fraud Examiners, Inc. (ACFE) and ACL Kansas City Metro User Group. Tom has received the Certified Fraud Examiner (CFE) designation from the ACFE.

He has presented to a number of organizations on topics, such as fraud prevention, risk management and leveraging technology tools. He also is a frequent contributor to the **BKDForensics.com blog**.

Tom is a 2006 *summa cum laude* graduate of Missouri State University, Springfield, with a B.S. degree in accounting, and a 2007 graduate with an M.Acc. degree.



Adam C. Rouse, CFE, CCA, CCP
Managing Consultant

Adam is a member of BKD’s Enterprise Risk Solutions division. He has been providing internal audit services to both the public and private sectors for approximately seven years. His experience includes providing services related to internal audit and IT audit, as well as performing fraud and forensic investigations.

Prior to joining BKD, he worked for a regional advisory firm and as an internal auditor for one of the largest municipalities in the Midwest.

Adam is a Certified Fraud Examiner (CFE), Certified Construction Auditor (CCA) and Construction Control Professional (CCP).

He is an Executive Board Member for Saint Louis University, John Cook School of Business and a Student Impact Committee Member with Junior Achievement.

Adam is a 2010 graduate of Fontbonne University, St. Louis, with a B.S. degree in business administration and a concentration in accounting.



Sam Beck
Consultant

Sam is a member of BKD’s Enterprise Risk Solutions division. He helps clients identify risk and comply with laws and regulations.

Prior to joining BKD, he interned at a regional internal audit firm based in Denver. There, he gained valuable experience in internal auditing and the identification and reporting of operational and compliance issues for clients of all sizes.

Sam is a member of The Institute of Internal Auditors and Colorado Society of CPAs. He is currently working towards obtaining his CPA license.

While attending Metropolitan State University of Denver, he received the Outstanding Student Award for the Masters of Professional Accountancy program from the College of Business.

Sam is a 2017 graduate of Metropolitan State University of Denver, Colorado, with a master of professional accountancy degree, and a graduate of University of Colorado Boulder with a bachelor's degree in economics.

Upon award and during the contract period, if the Consultant chooses to assign different personnel to the project, the Consultant must submit their names and qualifications including information listed above to the City for approval before they begin work.

In the event we are required to make a change to any key personnel assigned to your engagement, we will discuss this with you to explain the circumstances and proposed change. Your engagement partner, Keith Galante, will coordinate personnel changes. We generally do not remove key personnel from an engagement once it has begun, but occasionally employee turnover or other events beyond our control require such a change. If a personnel change is required, we are confident we can provide a qualified replacement to complete your services with limited interruption.

We understand engagement team members mentioned in our response to this RFP can only be changed with the approval of the City.

QUALIFICATIONS

The information requested in this section should describe the qualifications of the firm or entity, key staff and sub-contractors performing projects within the past five years that are similar in size and scope to demonstrate competence to perform these services. Information shall include:

Names of key staff that participated on named projects and their specific responsibilities with respect to this scope of work.

SIMILAR PROJECT EXPERIENCE

- ▶▶ A large utility – The City's proposed engagement team member Adam Rouse, who is a CFE, recently performed a similarly scoped internal audit project for one of the largest utilities in the country. Adam acted as the engagement executive for this project. During the course of this project, Adam was responsible for identifying dwellings within the service area that were not being billed or were being under-billed totaling an amount of more than \$1 million. Adam assisted with identifying various process improvements that directly affected the utility's revenue collection.

A summary of your firm’s or entity’s demonstrated capability, including length of time that your firm has provided the services being requested in this Request for Proposal.

FIRM QUALIFICATIONS & DEMONSTRATED COMPETENCE

INTERNAL AUDIT RESOURCES

BKD has been providing internal audit services for more than 15 years. BKD’s internal audit team offers the expertise of professionals who have obtained the following designations:

- ▶▶ Certified Fraud Examiner (CFE)
- ▶▶ Certified Public Accountant (CPA)
- ▶▶ Certified Internal Auditor® (CIA®)
- ▶▶ Certified Information System Auditor (CISA)
- ▶▶ Certified Information Security Manager® (CISM®)
- ▶▶ Certified Information Systems Security Professional (CISSP)
- ▶▶ Certified Information Technology Professional (CITP)
- ▶▶ Certified Fiduciary and Investment Risk Specialist™ (CFIRST™)
- ▶▶ Certified in the Governance of Enterprise IT (CGEIT)
- ▶▶ Certified in Risk and Information Systems Control™ (CRISC™)
- ▶▶ Certified Management Accountant® (CMA®)
- ▶▶ Certified NetWare Engineer (CNE)
- ▶▶ Project Management Professional (PMP)
- ▶▶ Master Business Continuity Planner (MBCP)

In addition to having numerous professionals with CFE designations firmwide, we have included multiple proposed engagement team members on the City’s engagement who have this certification.

GOVERNMENTAL ACCOUNTING EXPERTISE

BKD National Governmental Group works with approximately 500 public sector clients nationwide, including municipalities, counties, federal and state agencies, public utilities, airports and transportation authorities. Our advisors can help the City address the numerous financial considerations of governmental entities, including fiscal accountability and resource management, as well as performance management, budgeting and debt administration.

As part of our commitment to remaining at the forefront of the public sector, leaders across our national governmental practice created the BKD Center of Excellence for Government. This group of professionals meets regularly to discuss important developments, legislative updates and challenges affecting governmental entities similar to the City.

experience commitment

“BKD’s personnel from staff to partner that I’ve worked with are very professional and consider the operations and timelines of the agency personnel in their planning. They are willing to discuss issues and accounting treatments in an open method while ensuring that the standards are met. The comments and recommendations are helpful and have assisted the city in making improvements.”

Beth Machann
City Controller
City and County of
Denver, Colorado

PUBLIC POWER & UTILITY INDUSTRY EXPERTISE

BKD provides audit, financial reporting, tax and consulting services to approximately 250 utility clients nationwide, including joint action agencies, public power organizations and rural electric cooperatives. Firmwide, our advisors can offer their expertise to help the City remain current on important issues while also helping you navigate challenges presented by increased environmental legislation and Federal Energy Regulatory Commission (FERC) and Rural Utilities Services (RUS) rulemaking guidance.

Because we work with a variety of energy clients, including municipal utilities, cooperatives, generation and transmission organizations, Independent System Operators (ISO) and Regional Transmission Organizations (RTO), our team is armed with the knowledge to offer practical solutions that can help you increase efficiencies and identify areas that may require attention within your organization.

Our understanding of the dynamics and governance of utility entities, along with our involvement in various regulatory and utility organizations, can bring added value to the City.

PUBLIC SECTOR CONSULTING EXPERIENCE

Identifying improvement and implementing true change within your organization requires more than reading findings on a report. You require insight specific to your operational needs. BKD's Public Sector Consulting practice includes professionals with years of experience serving cities of varying sizes throughout the country, with populations ranging from 25,000 to 1.3 million. We also work with other governmental entities, including public utility authorities and state agencies.

Our professionals bring together top-tier data analytics tools with process knowledge and an understanding of the public sector's challenges. Supported by national peer-reviewed research, our solutions are specifically tailored to each client, and are rooted in principles that can help provide vision and guidance to stakeholders inside and outside of your organization.

REPRESENTATIVE CLIENTS

City & County of Denver

City of Arvada

City of Aurora

City of Balch Springs

City of Bellevue

City of Bentonville

City of Brookings

City of Colorado Springs

City of Conway

City of El Paso

City of Fort Smith

City of Greenville

City of Indianapolis & Marion County

City of Kansas City

City of Kerrville

City of Lancaster

City of Lincoln

City of Little Rock

City of Lubbock

City of McKinney

City of Mesquite

City of Nebraska City

City of North Richland Hills

City of Phoenix

City of Ralston

City of Roanoke

City of Springdale

City of Texarkana

City of Westminster

Sedgwick County

Town of Addison

Town of Highland Park

CONFIDENTIAL

For private Proposers, provide at least three references that received similar services from your firm. The City of Banning reserves the right to contact any of the organizations or individuals listed. Information provided shall include:

Client Name

Project Description

Project start and end dates

Client project manager name, telephone number, and e-mail address.

Our clients are our best ambassadors, and we encourage you to contact them about their satisfaction with our services. The following clients have consented to discussing BKD's services and service delivery with you at your convenience.

Lubbock Power & Light

Special Procedures Review

2015 – Current

Mr. Andy Burcham

Assistant Director/Chief Financial Officer

806.775.3430

aburcham@mail.ci.lubbock.tx.us

Northern Illinois Municipal Power Agency

Financial Statement Audit

December 2017 – Current

Ms. Linda Holland

Controller

612.259.0324

linda.holland@avantenergy.com

NMPP Energy

Financial Statement Audit

January, 2017 – June, 2018

Ms. Jamie Johnson

Director of Finance & Accounting

402.474.4759

jjohnson@nmppenergy.org

experience
support

“I have never found distance to be an issue working with BKD. They are respectful of our staff time and work load, and we have found it easy to work with them via BKD's dynamic and efficient file exchange process. Distance is not a problem.”

Paul Larson

Controller

Westmont College

Santa Barbara,

California

CONFIDENTIAL

Any public entity which submits a proposal should describe in detail how it currently performs services like those identified in the scope of work within its or other jurisdictions, including photographs, written policies and/or video of services provided. If you have performed these services under contract for another public entity, please provide references for those entities as set forth above for private Proposers.

BKD is not a public entity.

FINANCIAL CAPACITY

Provide the Proposer's latest audited financial statement or other pertinent information such as internal unaudited financial statements and financial references to allow the City to reasonably formulate a determination about the financial capacity of the Proposer. Describe any administrative proceedings, claims, lawsuits, or other exposures pending against the Proposer.

FINANCIAL STABILITY

BKD's capital structure is 100 percent partner financed. Our partnership agreement requires partners to maintain capital accounts, which are reviewed annually to verify the firm has sufficient capital to finance operations, capital expenditures, expansion, etc. BKD is debt free.

Our pension plan is a defined contribution plan, funded as benefits are earned. Payments to retired or withdrawn partners are fixed and limited under our partnership agreement to a low percentage of firm net income.

Our system of financial and budgetary controls provides for timely monthly financial statements. Each month, management compares actual financial data to the current year's budget and to the previous year's figures. On a daily basis, management can monitor the firm's financial performance and adopt appropriate strategies to meet changing conditions.

We are confident our financial house is in order, and our partners are committed to keeping it that way.

ADMINISTRATIVE PROCEEDINGS, CLAIMS OR LAWSUITS

BKD's emphasis on quality has rewarded the firm with an excellent track record regarding claims related to professional services. Underwriters of professional liability insurance for accounting firms have informed us that we have one of the best litigation histories in the accounting profession. To avoid litigation, BKD maintains an extensive risk management program addressing a multitude of issues ranging from client acceptance to final working paper and financial statement review. Yet, as with any firm our size, the firm does experience litigation from time to time. Details of litigation cannot be disclosed pursuant to confidentiality agreements; however, the results of litigation have never been material to the firm. Currently, there is no substantial litigation outstanding.

FEE PROPOSAL

All Proposers are required to use the online rate form to submit hourly rates/pricing as specified for their proposal. Pricing instructions should be clearly defined to ensure fees proposed can be compared and evaluated. Additional pricing information can be submitted within your proposal. Proposals shall be valid for a minimum of 180 days following submission.

BKD knows our clients do not like fee surprises. Neither do we. Our goal is to be candid and timely, and we want to answer your questions about fees upfront. We determine our fees by evaluating a number of variables: the complexity of the work, the project’s scope, the time we will spend and the level of professional staff needed.

PROPOSED FEES

City of Banning

	2018
Internal Audit of the City’s Administrative Services Department – Utility Billing Division	\$55,500

In addition, you will be billed actual travel costs, without markup. We are estimating travel costs to be approximately \$3,600 in addition to the fees above.

HOURLY RATES

Any work outside the scope of this engagement will be priced according to our hourly rates.

Staff Levels	Hourly Rates
Partner	\$340–\$570
Senior Manager, Director	\$210–\$475
Associate, Senior Associate, Senior Associate II, Manager	\$125–\$335

DISCLOSURE

Please disclose any and all past or current business and personal relationships with any current Banning elected official, appointed official, City employee, or family member of any current Banning elected official, appointed official, or City employee. Any past or current business relationship may not disqualify the firm from consideration.

BKD has not had any professional relationship with the City or related entities. No relationship exists that would constitute a conflict of interest relative to performing the proposed engagement.

SAMPLE AGREEMENT

The firm selected by the City will be required to execute an Agreement for Services with the City. The form of the Agreement is enclosed as an online attachment, but may be modified to suit the specific services and needs of the City. If a Proposer has any exceptions or conditions to the Agreement, these must be submitted for consideration with the proposal. Otherwise, the Proposer will be deemed to have accepted the form of Agreement. See Section 13, below.

The following changes to the terms and conditions as referenced in the RFP were made to comply with accounting professional standards and/or BKD's policies, as the City can appreciate. BKD looks forward to the opportunity to address these changes with the City. As BKD has successfully resolved similar issues with municipalities, BKD is confident the parties will successfully resolve all matters. BKD sincerely appreciates the City's consideration and understanding.

Exhibit A – Upon acceptance of the engagement, we will work with the City to establish and document the actual scope and the responsibilities of management and BKD in accordance with professional standards, in a separate letter to be signed by the City and BKD. We propose the letter be included in the contract under Exhibit A – Scope of Services.

Indemnification – BKD does have some limitations with respect to indemnifying clients, in accordance with professional standards and BKD insurance policies. Therefore, if engaged, BKD proposes to limit indemnification only to the extent the claims, damage, liability, loss, etc., result from the services performed by BKD pursuant to this engagement and are caused by BKD's own negligence or intentional misconduct, so as to not indemnify and hold harmless the City for its own negligence and actions.

Insurance Requirements – BKD can generally comply with the insurance requirements noted in the RFP; however, there are specific issues which will require further discussion, *e.g.*, waiver of subrogation, separation of insureds, additional insureds, policy notifications. As you can appreciate, these specific issues are controlled by the terms of our policies and are outside BKD or any other CPA firm's discretion. BKD is confident, though, any insurance issue will be satisfactorily resolved, if we are given the opportunity to provide professional services to you.

CHECKLIST OF FORMS TO ACCOMPANY PROPOSAL

As a convenience to Proposers, following is a list of the forms, included as online attachments to this RFP, which should be included with proposals:

Ex Parte Communications Certificate

Please see the Appendix for the completed Ex Parte Communications Certificate.

Price Proposal (Online Rate Sheet)

We have completed the requested online rate sheet upon submission of our proposal.

Disclosure of Government Positions

Please see the Appendix for the completed Disclosure of Government Positions form.

Disqualifications Questionnaire

Please see the Appendix for the completed Disqualifications Questionnaire.

“Unmatched client service isn’t just a slogan at BKD; it’s the backbone of our culture.”

Theodore D. Dickman, CPA
Chief Executive Officer | BKD, LLP

APPENDIX

EX PARTE COMMUNICATIONS CERTIFICATE

EX PARTE COMMUNICATIONS CERTIFICATION

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning the RFP No. 17-105 – Internal Audit Services RFP at any time after January 2, 2018.



OR

I certify that Proposer or Proposer's representatives have communicated after January 2, 2018 with a City Councilmember concerning the RFP No. 17-105 – Internal Audit Services RFP. A copy of all such communications is attached to this form for public distribution.

DISCLOSURE OF GOVERNMENT POSITIONS

DISCLOSURE OF GOVERNMENT POSITIONS

Each Proposer shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

No partner or employees of the firm currently hold positions as elected or appointed officials, directors, officers or employees of the City of Banning or have held such positions in the past twelve months. To the best of our knowledge, no relationship exists that would constitute a conflict of interest relative to performing the proposed services.

DISQUALIFICATIONS QUESTIONNAIRE

DISQUALIFICATIONS QUESTIONNAIRE

The Consultant shall complete the following questionnaire:

Has the Consultant, any officer of the Consultant, or any employee of the Consultant who has proprietary interest in the Consultant, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes _____ No

If the answer is yes, explain the circumstances in the following space.



BKD THOUGHTWARE

BKD's expertise spans a wide variety of industries and subjects, and our professionals share their knowledge in print, online and in person to help advance your organization. Use the QR code below to sign up for **BKD Thoughtware®** emails.



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bkd.com



CITY OF BANNING

99 EAST RAMSEY ST., PO BOX 998, BANNING, CA 92220-0998

ADMINISTRATIVE SERVICES DEPARTMENT PURCHASING DIVISION

April 4, 2018

Mr. Adam Rouse
BKD, LLP
1801 California Street
Denver, CO 80202

RE: Administrative Services Department RFP #17-105 Internal Audit Services

Dear Mr. Rouse:

The Administrative Services Department has evaluated the proposal that your company submitted in response to RFP Number 17-105, Internal Audit Services, along with the other submitted proposals. It is my pleasure to inform you that, after a preliminary evaluation of your proposal, we have selected BKD, LLP as one of the offerors to proceed to the "Best and Final Offers" phase of the evaluation process.

Therefore, in accordance with Section 7(C) of the RFP, we invite you to submit a Best and Final Offer ("BAFO") to the Purchasing Division. We request a BAFO for the Fee Proposal Section of your proposal. A list of the specific items is enclosed. "Please be advised that we will not conduct a reverse auction event for additional Cost submittals for this RFP". You should submit the Fee Proposal Rate Schedule BAFO as a replacement to and in accordance with the RFP requirements for your original Fee Proposal submittal. You must submit the BAFO to the Purchasing Division through the Planet Bids portal or by email to jmccoy@ci.banning.ca.us, on or before **April 5, 2018 by 10:00 a.m.** to be considered for selection for contract negotiations.

This letter is only an invitation to participate further in the RFP process; it does not convey or imply anything more. This letter is not intended to be a binding commitment to contract, nor will the Purchasing Division be obligated in any manner until a formal written contract has been executed by all necessary Commonwealth officials. Accordingly, all activities in furtherance of this process, including your compliance with the conditions set forth in this letter, are considered to be at your sole cost and risk.

Sincerely,

Jennifer McCoy
Purchasing Manager

ITEMS FOR OFFEROR FOR BAFO SUBMISSION

Fee Proposal

Staff Levels	Item Description	Hourly Rate	Estimated Hours	Total
Partners	Standard Rate	\$160	8	\$1,280
Partners	Overtime Rate			
Managers	Standard Rate	\$160	69	\$11,040
Managers	Overtime Rate			
Supervisory Staff	Standard Rate			
Supervisory Staff	Overtime Rate			
Staff	Standard Rate	\$155	271	\$42,005
Staff	Overtime Rate	Rounding adjustment		(\$25)
Additional Fees	Travel Actuals			\$3,600*
Proposed Fees Total			348	\$57,900

*Travel is an estimate

ATTACHMENT 3

Resolution 2018-46

RESOLUTION 2018-46

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE PROFESSIONAL SERVICES AGREEMENT WITH BKD, LLP, FOR AN AMOUNT OF \$57,900 TO PERFORM AUDIT SERVICES FOR AN INTERNAL AUDIT OF THE ELECTRIC UTILITY AND BILLING DEPARTMENTS

WHEREAS, the City currently provides electric utility services to the residents of the City of Banning; and

WHEREAS, the City internally bills customers monthly for electric utility services based on the monthly electric meter reads; and

WHEREAS, the Council has expressed a desire to have a detailed internal audit of the electric utility billing process.

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

SECTION 1. The Banning City Council adopts Resolution 2018-46 approving a Professional Services Agreement with BKD, LLP of Missouri in an amount of \$57,900 for internal audit services of the Electric Utility and Utility Billing departments.

SECTION 2. The Interim City Manager or her designee is authorized to make necessary budget adjustments, appropriations and transfers related to this amendment.

SECTION 3. The Interim City Manager is authorized to execute the Professional Services Agreement with BKD, LLP of Missouri in a form approved by the City Attorney.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

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

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-46, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 4

Draft Agreement

PROFESSIONAL SERVICES AGREEMENT

By and Between

THE CITY OF BANNING

and

BKD, LLP

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
THE CITY OF BANNING, CALIFORNIA
AND
BKD, LLP**

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein“ Agreement”) is made and entered into this 10th day of April, 2018 by and between the **City of Banning**, a municipal corporation (“City”) and **BKD, LLP**, a Missouri corporation (“Consultant”). City and Consultant are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”.

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services to provide Internal Audit Services of the Electric Utility and Utility Billing departments as defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Banning’s Municipal Code, City has authority to enter into this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Section 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which services may be referred to herein as the “services” or “work” hereunder and which relate to internal audit services of the Electric Utility and Utility Billing departments. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its

ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

This Agreement shall include the Request for Proposal or Invitation for Bids ("Contract Documents") and the Scope of Service shall include the Consultant's scope of work or in Consultant's accepted bid proposal ("Accepted Bid") shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the Contract documents, Accepted Bid, and/or Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be

responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to five percent (5%) of the Contract Sum or \$25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. City shall make available to Consultant only physical facilities such as desk, filing cabinets, and conference space ("City Facilities"), as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed FIFTY-SEVEN THOUSAND NINE HUNDRED DOLLARS (\$57,900.00) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the services, (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-consultant expenses if an approved sub-consultant pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-Consultant contracts. Sub-Consultant charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City may independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by the City of any invoice provided by the Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions of the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant (Principals) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Keith T. Galante, CPA
(Name)

Partner
(Title)

Adam C. Rouse, CFE, CCA, CCP
(Name)

Managing Consultant
(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-consultants, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and sub-consultants, if any, assigned to perform the services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desire to reassign any staff or sub-consultant of Consultant, Consultant shall, immediately upon reassign notice from City of such desire of City, reassign such person or persons.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent Consultant of City and shall remain at all times as to City a wholly independent Consultant with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venture or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Consultant and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including “any auto” and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant’s profession. This coverage may be written on a “claims made” basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant’s services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

(f) Sub-consultants. Consultant shall include all sub-consultants as insureds under its policies or shall furnish separate certificates and certified endorsements for each sub-consultant. All coverages for sub-consultants shall be subject to all of the requirements stated herein.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant’s insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policies must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following “cancellation” notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL

THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER
NAMED HEREIN.

[to be initialed]

Agent's Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such sub-consultant shall require the sub-consultant to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, sub-consultants, or invitees, or any individual or entity for which Consultant is legally liable ("indemnors"), or arising from Consultant's reckless or willful misconduct, or arising from Consultant's or indemnors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar, indemnity agreements with its sub-consultants and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

5.4 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require sub-consultants to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make

records and transcripts from such records. Such records shall be maintained for a period of 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, sub-consultants and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-consultants shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or sub-consultants, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed

under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or sub-consultant of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-consultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by

reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Consultant and its sureties shall be liable for and shall pay to the City the sum of Not Applicable (\$ 0.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Consultant any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this

Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-consultant without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF BANNING

CONSULTANT

Rochelle Clayton, Interim City Manager

By: _____
NAME:
TITLE:

By: _____
NAME:
TITLE:

ATTEST:

Sonja De La Fuente, Deputy City Clerk

Tax ID No.

APPROVED AS TO FORM:

Kevin G. Ennis, Esq., City Attorney

Two signatures are required if a corporation

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.

EXHIBIT "A"
SCOPE OF SERVICES

- I. Consultant will perform the following Services in connection with the internal audit services of the Electric Utility and Utility Billing Departments as specified in the Consultant proposal dated January 24, 2018 in connection therewith:**
- a. Examine all cash, check and credit transactions of the Banning Electric Utility and determine if all customer cash payments are fully accounted for. Amount of money deposited should correspond with the amounts paid by City of Banning customers.
 - b. Identify the amount of electricity purchased (from Southern California Edison and other power suppliers) by the utility in a given year, and compare it to the amount of electricity sold to customers during that year (In Megawatt Hours).
 - c. Identify all dwellings in the City that receive utilities but are not billed or are partially billed. Identify the retail value for each of those transactions.
 - d. Examine random samples of electric utility bills for billing accuracy (based on meter readings provided), rate structure and consistency.
 - e. Examine if electric utility usage was overridden (lowered) manually in individual cases.
 - f. Identify charges billed for incorrect or non-existent equipment.
- II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:**
- a. Make recommendations establishing controls and proceedings for employees counting and/or handling cash (prior to cash pickup by security company).
 - b. Firm shall present recommendations for changes to the billing rate structure, along with recommendations for the monitoring of the City's future utility billings.
 - c. Initial Analysis Report – Firm shall provide a written Initial Analysis Report of the past two (2) years of utility bills.
 - d. Written draft reports will be required within two weeks of completion of the internal audit field work. Results will be discussed between the audit firm partner or manager and the appropriate City of Banning staff, and a final report will be issued within two weeks of such meeting. Copies of the final report will vary in number, depending on the audit. These additional copies are to be provided by the audit firm, and are to be included in the contract price.
 - e. Irregularities and illegal acts – Auditors shall be required to make an immediate, written report of all irregularities and illegal acts or indications of illegal acts of which they become aware to the Administrative Services Director and City Manager and City Attorney.

- III. In addition to the requirements, during performance of the Services, Consultant will keep the City apprised of the status performance by delivering the following status report:
 - a. The partner-in-charge of the audit shall be available to attend meetings of the City of Banning Finance Committee and City Council at which times the audit progress, reports and findings will be discussed along with other in-person meetings.
 - b. Email updates/questions to applicant team and City while reviews are underway.
 - c. Conference calls.
- IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.
- V. Consultant will utilize the following personnel to accomplish the Services:
 - a. Keith T. Galante, CPA
 - b. Christie L. Clements, CISA, CRMA
 - c. Bryan Callahan, CPA, CFF, CFE, CVA
 - d. Thomas N. Haldiman, CPA, CFE
 - e. Adam C. Rouse, CFE, CCA, CCP
 - f. Sam Beck

EXHIBIT "B"
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

None

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks at the following rates

PHASE	DESCRIPTION
1.	Planning & Tailoring Procedures
2.	Fieldwork
3.	Reporting

ENGAGEMENT TEAM FUNCTIONS	HOURLY RATE	ESTIMATED HOURS	ESTIMATED TOTAL
Partners	\$160.00	8	\$1,280.00
Managers	\$160.00	69	\$11,040.00
Staff	\$155.00	271	\$42,005.00
Travel Estimate	N/A	N/A	\$3,600.00
Rounding Adjustment	N/A	N/A	(\$25.00)
TOTAL	N/A	348	\$57,900.00

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.9.

III. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
- B. Line items for all materials and equipment properly charged to the Services.
- C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.
- D. Line items for all approved sub-consultant labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. The total compensation for Services shall not exceed \$57,900.00 as provided in Section 2.1 of this Agreement.

V. The Consultant's billing rates for all personnel are attached as Exhibit C-1.

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

- I. Consultant shall perform all Services timely in accordance with the schedule to be developed by Consultant and subject to the written approval of the Contract Officer. Consultant will provide a written proposal within one week of the City's request for services, unless otherwise agreed to by the Contract Officer.**

- II. Consultant shall deliver the following tangible work products to the City by the following dates.**
 - a. To be determined by project team.

- III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.**

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Ted Shove, Economic Development Manager

MEETING DATE: April 10, 2018

SUBJECT: Adopt Resolution No. 2018-33, Approving an Agreement for the Purchase of Real Property at 162 N. San Gorgonio Avenue from the Rochelle Revocable Living Trust 2011 in an Amount Not to Exceed \$36,050

RECOMMENDED ACTION:

That the City Council Adopt Resolution No. 2018-33:

1. Approving the "Agreement for Purchase and Sale and Escrow Instructions for 162 N. San Gorgonio Avenue with Rochelle Revocable Living Trust 2011 by which the City will be purchasing the Property from the Trust;
2. Authorize the Mayor to execute the Agreement for Purchase and Sale and Escrow Instructions and Certificate of Acceptance for 162 N. San Gorgonio Avenue; and
3. Authorize Administrative Services Director to make necessary budget adjustments and appropriations for FY 2018.

COMMITTEE RECOMMENDATION:

In May 2017, the Economic Development Ad hoc Committee identified the subject property as a strategic property for future downtown revitalization. This property was also discussed on July 11th during a study session regarding the City's Real Property Strategy.

BACKGROUND:

During the summer of 2017, Council directed staff to appraise and negotiate the purchase of the property located at 162 N. San Geronio Avenue ('Site'). The Site is vacant land, zoned "Downtown Commercial", and located in the vicinity of the southeast corner of San Geronio Avenue and Williams Street. The City owns adjacent vacant land to the west and south of the Site. The property would be used for future downtown revitalization efforts.

An appraisal of the property was completed on July 30, 2017, providing a fair market value of \$35,000 for fee simple interest. The Agreement for Purchase and Sale and Escrow Instructions ("Agreement") is attached and includes an approximate 45 day escrow period, to close on or before June 1, 2018. The purchase price is not to exceed \$36,050.00.

Government Code Section 65402 requires that a jurisdiction's planning agency (i.e. Planning Commission) review and report upon whether the proposed acquisition of real property for public purposes is consistent with the adopted General Plan. The proposed acquisition of this property was considered by the Planning Commission at its April 4, 2018 meeting and was determined to be consistent with the City's General Plan.

Staff has reviewed the contemplated property acquisition pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined that its acquisition to be Categorically Exempt pursuant to Section 15061(b)(3): "Review for Exemption" of the California Environmental Quality Act Guidelines. The acquisition of the property is exempt from review under CEQA because the purchase will not have a significant effect on the environment since the subject action only relates to the purchase of the property. Further environmental review may be conducted at such time as the City formally considers its development.

Staff recommends approving this acquisition for stimulation of economic development efforts in the downtown area.

JUSTIFICATION:

This acquisition was recommended by the Economic Development Ad hoc Committee and the Council directed staff to bring the item forward if an agreement could be made to acquire at fair market value.

FISCAL IMPACT:

The purchase price is \$36,050 that includes the City's share of all closing costs. Funds will be drawn from Account 001-0000-170.10-00.

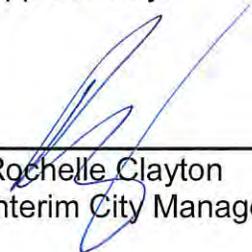
OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2018-33
2. Partially Executed Agreement for Purchase and Sale and Escrow Instructions

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

Resolution 2018-33

RESOLUTION 2018-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AN AGREEMENT FOR THE PURCHASE OF REAL PROPERTY AT 162 N. SAN GORGONIO AVENUE FROM THE ROCHELLE REVOCABLE LIVING TRUST - 2011 IN AN AMOUNT NOT TO EXCEED \$36,050

WHEREAS, in May, 2017, the City's Economic Development Ad hoc Committee recommended acquiring 162 N. San Gorgonio Avenue (APN: 541-141-005) for the purpose of future downtown revitalization; and

WHEREAS, on July 11th, 2017 at the City's Real Property Strategy study session, the City Council concurred that the property located at 162 N. San Gorgonio Avenue would be a vital piece to acquire for long term economic development in the downtown corridor; and

WHEREAS, on July 30th, 2017 the property located at 162 N. San Gorgonio Avenue was appraised and its fair market value was determined to be \$35,000; and

WHEREAS, the property owner for 162 N. San Gorgonio Avenue has agreed to terms with the City to sell the property in an amount not to exceed \$36,050; and

WHEREAS, the acquisition of 162 N. San Gorgonio Avenue will result in future job growth and long term revenue creation for the City of Banning; and

WHEREAS, this property acquisition was reviewed pursuant to the State Guidelines for the California Environmental Quality Act (CEQA) and determined by staff to be Categorically Exempt pursuant to Section 15061(b)(3): "Review for Exemption" of the California Environmental Quality Act Guidelines. The acquisition of the property is exempt from review under CEQA because the purchase will not have a significant effect on the environment since the subject action only relates to the purchase of the property. Further environmental review may be conducted at such time as the City formally considers its development; and

WHEREAS, Government Code Section 65402 requires that a jurisdiction's planning agency (i.e. Planning Commission) review and report upon whether the proposed acquisition of real property for public purposes is consistent with the adopted General Plan. The proposed acquisition of this property was considered by the Planning Commission at its April 4, 2018 meeting and was determined to be consistent with the City's General Plan.

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

SECTION 1. The Banning City Council adopts Resolution 2018-33 approving the Agreement to Purchase and Sale and Escrow Instructions for 162 N. San Gorgonio Avenue with Rochelle Revocable Living Trust – 2011 for an amount not to exceed

\$36,050, a copy of which is Attachment 2 to the staff report that accompanies this Resolution.

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments, appropriations and transfers related to this amendment.

SECTION 3. The Mayor is authorized to execute the Agreement for Purchase and Sale and Escrow Instructions for 162 N. San Gorgonio Avenue, in a form approved by the City Attorney.

SECTION 4. The Mayor is authorized to execute the Certificate of Acceptance for 162 N. San Gorgonio Avenue, in a form approved by the City Attorney.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

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

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-33, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 2

Partially Executed Agreement for Purchase and
Sale and Escrow Instructions

**AGREEMENT FOR PURCHASE AND SALE
AND ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE AND ESCROW INSTRUCTIONS (this "Agreement") is dated as of _____, 2018, and is entered into by and between the CITY OF BANNING ("Buyer"), and ROBERT C. ROCHELLE, sole trustee of the Rochelle Family Revocable Living Trust-2011 (collectively, "Seller"). Upon execution of this Agreement by Buyer, Buyer shall promptly deliver a copy of this executed Agreement to Seller.

RECITALS

A. Seller is the owner of the land described on Exhibit "A" and the improvements, fixtures and personal property (if any) thereon (collectively, the "Property") located at 162 N. San Gorgonio Avenue, Banning, CA 92220.

B. Buyer desires to purchase the Property from Seller and Seller desires to sell the Property to Buyer.

NOW, THEREFORE, in consideration of the Independent Consideration set forth in Section 1.2.2 below, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller hereby agree as follows:

1. SALE AND PURCHASE PRICE.

1.1 Sale and Purchase. Seller agrees to sell the Property to Buyer and Buyer agrees to purchase the Property upon the terms and conditions hereafter set forth.

1.2 Purchase Price; Consideration for Agreement.

1.2.1 The purchase price ("Purchase Price") for the Property shall be THIRTY-SIX THOUSAND FIFTY AND NO/100 DOLLARS (\$36,050.00).

1.2.2 Notwithstanding anything in this Agreement to the contrary, upon execution of this Agreement by Buyer, Twenty and No/100 Dollars (\$20.00) shall be delivered by Buyer to Escrow Agent for delivery to Seller as non-refundable independent contract consideration (the "Independent Consideration"), which is in addition to the Purchase Price, and which amount has been bargained for and agreed to as consideration for Seller's execution and delivery of this Agreement and for the rights and privileges granted to Buyer herein, including, without limitation, any and all rights granted to Buyer to terminate this Agreement during certain periods hereunder. If Buyer elects to terminate this Agreement for any reason other than Seller's default, Seller shall retain the Independent Consideration. The Independent Consideration shall not be applicable towards the Purchase Price.

2. TITLE.

2.1 General. Title to the Property shall be conveyed by a grant deed in the form attached hereto as Exhibit "B" and shall be evidenced by a CLTA Standard Coverage Form of Owner's Policy of Title Insurance (or an ALTA Extended Coverage Form Policy, if Buyer

elects such coverage as provided in Section 2.3 hereof) ("Title Policy"), and the cost of the Title Policy shall be borne by Seller as described in Section 4.9 below. The Title Policy shall be issued by First American Title Company, 323 Court Street, San Bernardino, CA 92401, Title Officer: Tammy Kerr/Cheryl Campbell ("Title Company"), with liability in the full amount of the Purchase Price, insuring title to the Property as vested in Buyer, free and clear of all liens and encumbrances and other matters affecting title to the Property, except title exceptions which Buyer has approved in writing (which shall constitute "Approved Title Exceptions").

Real property taxes shall not be prorated, but must be paid by Seller for the current tax period. Seller may claim a refund of property taxes in the event any property taxes paid are allocable to the period after the closing. Buyer, as a municipal corporation acquiring property within its jurisdiction, is exempt from property taxes.

2.2 Acts After Date of Agreement. During the period from the date of this Agreement through the Close of Escrow, Seller shall not record or permit to be recorded any document or instrument relating to the Property or physically alter the Property or permit or cause to be altered without the prior written consent of the Buyer, which consent may be withheld in Buyer's sole and absolute discretion.

3. LIMITED REPRESENTATIONS BY SELLER ("AS IS" SALE); INSPECTIONS. Buyer acknowledges that except as provided in Section 17 below, Seller is making no representations or warranties about the Property, express or implied; provided, however, that Buyer does not waive Seller's obligations under applicable law to disclose to Buyer all material facts known to Seller about the Property.

3.1 Inspection Period. Buyer may, for one hundred and twenty (120) days after the date of this Agreement ("Inspection Period"), Buyer may conduct, at Buyer's sole expense, such inspections and testing of the Property, including any improvements thereon, soils and ground water, as Buyer may desire or deem appropriate, in Buyer's sole discretion, to determine the suitability of the Property for Buyer's intended use. In conducting such inspections and testing, the Buyer shall endeavor to minimize damage to the Property, and any improvements thereon, and shall, in the event escrow fails to close, return the Property, including the improvements thereon, if any, to its condition prior to Buyer's inspections and testing, Seller hereby grants to Buyer and its authorized employees, representatives, agents and contractors, permission and a license to enter upon the Property at all reasonable times prior to the end of the Inspection Period for the purpose of conducting such inspections and testing. In the event the Property is occupied by any person(s) other than Seller, Seller shall make arrangements with such person(s) to ensure access by Seller its authorized employees, representatives, agents and contractors in order to conduct the inspections and testing pursuant to this section. Buyer shall indemnify, protect, defend (with legal counsel reasonably acceptable to Seller) and hold Seller harmless from and against any and all claims, liabilities, losses, damages, costs and expenses arising from, related to or caused by, Buyer's entry upon the Property or the performance of any inspection or test conducted by or at the request of Buyer or its contractors or agents (but not the results thereof). In the event Buyer determines the Property is not suitable, then Buyer may terminate this Agreement by written notice to Seller given prior to the end of the Inspection Period.

Notwithstanding California Civil Code Section 1103.1(a)(9), Seller shall deliver to Buyer, with reasonable diligence after the execution of this Agreement and at Seller's cost, a Natural Hazard Disclosure Statement (described in California Civil Code Section 1103.2).

Subject to the foregoing provisions of this Section 3 and Section 2.2, upon the Close of Escrow, Buyer shall take title to the Property in its then-current "AS IS" condition.

4. ESCROW.

4.1 Escrow Holder. The escrow shall be opened with Sentry Escrow Service, Inc., 300 S. Highland Springs Avenue, #10C, Banning, CA 92220 ("Escrow Holder"), within five (5) business days after the execution of this Agreement by Buyer and Seller depositing an executed copy or executed counterparts of this Agreement with Escrow Holder. This document shall be considered as the escrow instructions between the parties, with such further instructions as Escrow Holder requires in order to clarify the duties and responsibilities of Escrow Holder.

4.2 Close of Escrow. For the purposes of this Agreement, "Close of Escrow" shall be the date on which a grant deed for the Property in favor of Buyer is recorded in the Official Records of the Riverside County Recorder's Office. Provided all of Seller's and Buyer's obligations to be performed on or before Close of Escrow have been performed and all the conditions to the Close of Escrow set forth in this Agreement have been satisfied, escrow shall close on or before June 1, 2018 ("Closing Date"). All risk of loss or damage with respect to the Property shall pass from Seller to Buyer at the Close of Escrow. Possession of the Property shall be delivered to Buyer upon the Close of Escrow.

4.3 Seller Required to Deliver. Before the Close of Escrow, Seller shall deposit into escrow the following:

4.3.1 A grant deed conveying the Property to Buyer, in the form attached hereto as Exhibit "B", duly executed by Seller and acknowledged (the "Grant Deed");

4.3.2 A California 593 certificate and federal non-foreign affidavit (with respect to Seller); and

4.3.3 Any other documents reasonably required by Escrow Holder or the Title Company to be deposited by Buyer to carry out this escrow.

4.4 Buyer Required to Deliver. On or before the Close of Escrow, Buyer shall deposit into escrow the following (properly executed and acknowledged, if applicable):

4.4.1 An executed and acknowledged "Certificate of Acceptance" in the form attached to the Grant Deed (attached hereto as Exhibit "B");

4.4.2 The Purchase Price and Independent Consideration; and

4.4.3 Any other documents reasonably required by Escrow Holder to be deposited by Buyer to carry out this escrow.

4.5 Conditions to the Close of Escrow. Escrow shall not close unless and until both parties have deposited with Escrow Holder all sums and documents required to be deposited as provided in this Agreement. Additionally, Buyer's obligation to proceed with the transaction contemplated by this Agreement is subject to the satisfaction of all of the following conditions precedent, which are for Buyer's benefit and may be waived only by Buyer:

4.5.1 Seller shall have performed all agreements to be performed by Seller hereunder.

4.5.2 Title Company shall have issued or shall have committed to issue the Title Policy to Buyer, for the amount of the Purchase Price, showing fee title to the Property to be vested in Buyer subject only to the Approved Title Exceptions.

If any of the conditions to Close of Escrow are not timely satisfied for a reason other than a default of Buyer or Seller under this Agreement, and this Agreement is terminated, then upon termination of this Agreement, Escrow Holder shall promptly return to Buyer all funds (and all interest accrued thereon) and documents deposited by Buyer in escrow and to return to Seller all funds and documents deposited by Seller in escrow and which are held by Escrow Holder on the date of the termination (less, in the case of the party otherwise entitled to such funds, however, the amount of any cancellation charges required to be paid by such party under Section 4.11 below).

4.6 Recordation of Grant Deed; Delivery of Funds and Possession. Upon receipt of the funds and instruments described in this Section 4, Escrow Holder shall cause the Grant Deed to be recorded in the office of the County Recorder of Riverside County, California. Thereafter, Escrow Holder shall deliver the proceeds of this escrow (less appropriate charges as shown on a preliminary Settlement Statement executed by Buyer and Seller) to Seller, and Seller shall deliver possession of the Property to Buyer free and clear of all occupants.

4.7 Prorations. Property taxes shall not be prorated as Buyer is exempt from property taxes; Seller may apply for a refund, if Seller has paid property taxes that are allocable to the period after the Close of Escrow and Buyer shall reasonably cooperate therewith. All property assessments shall be prorated between Buyer and Seller as of the Close of Escrow based on the latest available tax information. All prorations shall be determined on the basis of a 360-day year.

4.8 Costs of Escrow. Buyer shall pay the premium for the Title Policy (including the cost of extended coverage and the cost of any survey obtained by Buyer in connection with such extended coverage), as well as all escrow fees, and the recording costs (if any).

4.9 Brokers. Buyer and Seller represent to one another and no broker or finder has been engaged by it in connection with the transaction contemplated by this Agreement, or to its knowledge is in any way connected with such transaction. Seller shall pay any and all other commissions to such broker in accordance with an agreement between Seller and such Broker. Each party covenants and agrees that any other broker fee or commission, which may be due or payable in connection with the closing of the transaction contemplated by

this Agreement through its dealings with that party, shall be borne solely by that party. Each party agrees to defend, indemnify and hold harmless the other party and its respective employees, agents, representatives, council members, attorneys, successors and assigns, from and against all claims of any agent, broker, finder or other similar party arising from or in connection with its activities relating to the sale of the Property to Buyer.

4.10 Escrow Cancellation Charges. In the event that this escrow shall fail to close by reason of the default of either party hereunder, the defaulting party shall be liable for all escrow and title cancellation charges. In the event that the escrow shall fail to close for any other reason, each party shall pay one-half (1/2) of all escrow and title cancellation charges.

5. ATTORNEYS' FEES. In any action between Buyer and Seller seeking enforcement of any of the terms and provisions of this Agreement, the prevailing party in such action shall be awarded, in addition to damages, injunctive or other relief, its reasonable costs and expenses, not limited to taxable costs, reasonable attorneys' fees and reasonable fees of expert witnesses.

6. NOTICES. All notices, requests, demands and other communication given or required to be given hereunder shall be in writing and sent by first class United States registered or certified mail, postage prepaid, return receipt requested, or sent by a nationally recognized courier service such as Federal Express, duly addressed to the parties as follows:

To Seller: Robert Rochelle
 1538 Bryan Street
 Banning, CA 92220

To Buyer: City of Banning
 99 E. Ramsey Street
 Banning, CA 92220
 Attn: City Manager

Delivery of any notice or other communication hereunder shall be deemed made on the date indicated in the return receipt or courier's records as the date of delivery or as the date of first attempted delivery, if sent by mail or courier service. Any party may change its address for purposes of this Section by giving notice to the other party as herein provided.

7. ASSIGNMENT. Neither this Agreement nor any interest herein may be assigned by either party without the prior written consent of the other party.

8. ENTIRE AGREEMENT. This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein, and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose. No provision of this Agreement may be amended, supplemented or in any way modified except by an agreement in writing signed by the parties hereto or their respective successors in interest and expressly stating that it is an amendment of this Agreement.

9. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

10. EMAIL DELIVERY. This executed Agreement (and executed counterparts of this Agreement), may be delivered by email.

11. TIME OF THE ESSENCE. Time is of the essence of this Agreement.

12. THIRD PARTIES. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

13. SEVERABILITY. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, unless such invalidity, illegality or unenforceability materially affects the economic terms of the transactions contemplated by this Agreement or the ability of either party to perform its obligations under this Agreement. In such case, either party may terminate this Agreement and the escrow upon written notice to the other party given no later than ten (10) business days after the party giving such notice becomes aware of such invalidity, illegality or unenforceability. In the event of such termination, all funds deposited with Escrow Holder by Buyer and any interest accrued thereon shall be returned to Buyer.

14. ADDITIONAL DOCUMENTS. Each party hereto agrees to perform any further acts and to execute, acknowledge and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

15. AUTHORITY OF CITY MANAGER. The City Manager of Buyer may give any and all notices, consents and terminations hereunder on behalf of Buyer provided they are in writing.

16. DUE AUTHORIZATION/EXECUTION. Upon execution hereof, each party shall promptly provide to the other party reasonable evidence of its due authorization of this Agreement.

17. LIMITED HAZMAT REPRESENTATION BY SELLER. Seller hereby represents and warrants that to the knowledge of Seller, the Property does not contain any hazardous materials. The foregoing representation and warranty shall survive the Close of Escrow.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SELLER:

Robert C. Rochelle

Robert C. Rochelle, Sole Trustee of The
Rochelle Family Revocable Living Trust-2011

BUYER:

CITY OF BANNING

By: _____

Print Name: _____

Title: _____

Attest:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

Kevin G. Ennis, City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF THE LAND

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

0.13 ACRES IN LOT 9 BLK 2 MB 009/044 SB AMENDED MAP OF THE BANNING LAND
CO

ASSESSOR'S PARCEL NUMBER: 541-141-005

EXHIBIT "B"

FORM OF GRANT DEED

(Attached.)

Exhibit "B"

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Attention: City Clerk

APN: 541-141-005

[SPACE ABOVE FOR RECORDER'S USE ONLY]

THE UNDERSIGNED GRANTOR DECLARES AS FOLLOWS:

This Grant Deed is exempt from Recording Fees pursuant to California Government Code Section 27383.

Documentary Transfer Tax is \$0 (exempt; conveyance to a public entity).

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged ROBERT C. ROCHELLE, sole trustee of The Rochelle Family Revocable Living Trust-2011 ("**Grantor**") hereby grants to the **CITY OF BANNING** ("**Grantee**"), the land located in the City of Banning, County of Riverside, State of California, more particularly described on **Exhibit A** attached hereto and incorporated herein by reference and all improvements thereon (collectively, the "Property").

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the date set forth below.

Dated: _____, 2018

GRANTOR:

Robert C. Rochelle, Sole Trustee of The
Rochelle Family Revocable Living Trust-2011

Exhibit "B"

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 the document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____ before me, _____, Notary Public, personally appeared _____, 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: _____

(affix seal in above space)

Exhibit "A"
to Grant Deed

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

0.13 ACRES IN LOT 9 BLK 2 MB 009/044 SB AMENDED MAP OF THE BANNING LAND
CO

ASSESSOR'S PARCEL NUMBER: 541-141-005

Exhibit "B"

CERTIFICATE OF ACCEPTANCE

(California Government Code Section 27281)

This is to certify that the interest in real property conveyed by that certain Grant Deed dated _____, 2018, from Robert C. Rochelle, sole trustee of The Rochelle Family Revocable Living Trust-2011 to the City of Banning, which is a political corporation, is hereby accepted by the undersigned officer on behalf of the City of Banning pursuant to the authority conferred by action of the City of Banning on _____, 2018, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2018

City Manager

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 _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
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 _____ (Seal)

Exhibit "B"

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Tom Miller, Electric Utility Director
Jim Steffens, Power Resource & Revenue Administrator

MEETING DATE: April 10, 2018

SUBJECT: Discuss and Consider Adopting Resolution 2018-38,
“Approving the industry standard Western Systems Power
Pool (WSPP) Confirmation Letter – Resource Adequacy
Purchase Agreement with Shell Energy North America (US),
LP, for Calendar Year 2019.”

RECOMMENDED ACTION:

Adopt Resolution No. 2018-38:

- I. Approving the Western Systems Power Pool Confirmation Letter – Resource Adequacy purchase agreement with Shell Energy North America for calendar year 2019, attached herewith as Exhibit “A” to Attachment 1.
- II. Authorizing the Electric Utility Director or their designee to execute the purchase agreement with Shell Energy North America.

BACKGROUND:

After the California energy crisis, the California Independent System Operator (“CAISO”) developed market modifications to ensure that all Load Serving Entities (“LSE”), including the City, have acquired sufficient electricity / capacity (“Resource Adequacy” or “RA”) to serve their peak demand. The CAISO determined that each LSE must maintain capacity reserves of at least 15% above its projected peak demand and implemented policy changes to ensure that these capacity reserves are available to meet that demand. Additionally, the CAISO requires that a specified amount of each participant’s total RA be from local generating resources, as defined by the CAISO.

Lastly, the CAISO requires that a specified amount of each participant's total RA be "flexible" (fast ramping), as defined by the CAISO. The transaction is consummated using an industry standard confirmation agreement developed by the WSPP.

In order to satisfy the CAISO's requirements, Staff solicited bids from the following twelve qualified energy marketers for 12 MWs of Flexible Local RA for calendar year 2019. Staff solicited bids a few months earlier than usual because the markets for RA tightened up in 2018, and Staff wanted to procure the RA for 2019 early in case the markets continued to be less liquid. The markets for RA became less liquid due to more restrictive CAISO policies, increased demand for RA from Community Choice Aggregators, and the bankruptcy of two of the main suppliers of RA.

Staff solicited bids from the following firms:

1. Shell Energy North America
2. Tenaska Power Services
3. Inland Empire Energy Center, LLC
4. Evolution Markets Inc.
5. Dynergy
6. Sempra U.S. Gas & Power
7. Calpine
8. EDF Trading
9. NRG Energy
10. Middle River Power
11. California Resource Corporation
12. Energy Dynamix

Staff received one response. The responsive bid that we did receive was:

Shell Energy North America

\$3.50/kilowatt month

One of the reasons for the limited number of responses is that the minimum standard RA product is 25 MWs, and there is only a limited amount of marketers that will deal in substandard quantities. Staff did contact other members of SCPPA, and the \$3.50/kilowatt month is consistent with the market conditions that they are experiencing. Additionally, the bid price received was a relatively small \$0.50 increase from last year's low-price bid, especially given the continuing less-liquid conditions in the RA markets. Therefore, staff is confident that this bid price is a competitive price but is a time sensitive offer based on current market conditions. In order to lock in the pricing staff has tentatively accepted the offer pending city council's immediate approval.

JUSTIFICATION:

It is a requirement of all CAISO participants to have a minimum of fifteen percent (15%) capacity reserves. Additionally, the CAISO requires that a specified amount of each

participant's total capacity be from local generating resources and be "flexible" (fast ramping), as those terms are defined by the CAISO.

FISCAL IMPACT:

The cost of this transaction is \$3.50/kilowatt month, for a total cost of \$504,000 over the twelve-month contract period. This is a continuing operating expense, and funds have been allocated in the FY 19 and FY 20 budgets to cover the ongoing expenditure.

OPTIONS:

1. Approve as recommended.
2. Do not approve the WSPP Confirmation Letter – Resource Adequacy purchase agreement with Shell Energy North America for calendar year 2019. The lack of flexible local RA capacity would subject the Electric Utility to penalties, fines and potential damages by the CAISO.

ATTACHMENTS:

1. Resolution 2018-38.

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

ATTACHMENT 1

Resolution 2018-38

RESOLUTION 2018-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE WESTERN SYSTEMS POWER POOL CONFIRMATION LETTER - RESOURCE ADEQUACY PURCHASE AGREEMENT WITH SHELL ENERGY NORTH AMERICA (US), LP FOR CALENDAR YEAR 2019

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

WHEREAS, the City is a Load Serving Entity ("LSE") with the California Independent System Operator ("CAISO"); and

WHEREAS, the CAISO has implemented Resource Adequacy ("RA") requirements of 115% requiring a minimum of 15% capacity reserves for all LSEs; and

WHEREAS, the CAISO requires that a specified amount of each participant's total capacity be from local generating resources, as defined by the CAISO; and

WHEREAS, the CAISO requires that a specified amount of each participant's total capacity be "flexible" (fast ramping), as defined by the CAISO; and

WHEREAS, the City solicited bids from qualified energy marketers for 12 MWs of Flexible Local Capacity for calendar year 2019 and received one qualified response. Shell Energy North America (US), LP, had the lowest responsive bid; and

WHEREAS, funds are available in the fiscal year 2019 and fiscal year 2020 budgets to cover the expenditures associated with this purchase agreement.

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

SECTION 1. Adopt Resolution 2018-38 approving the industry standard Western Systems Power Pool Confirmation Letter – Resource Adequacy Purchase Agreement between the City of Banning and Shell Energy North America (US), LP, attached herewith as Exhibit "A" (the "Agreement").

SECTION 2. Authorize the Electric Utility Director or their designee to execute the Agreement.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

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

Kevin G. Ennis, Esq. City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-38, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

Exhibit “A”

**WSPP CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SHELL ENERGY NORTH AMERICA (US), L.P.
AND
CITY OF BANNING**

This Confirmation Letter ("Confirmation") confirms the Transaction between **Shell Energy North America (US), L.P.**, a Delaware limited partnership ("Seller") and **City of Banning** ("Buyer"), and each individually a "Party" and together the "Parties", dated as of April __, 2018 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation.

This Transaction is governed by the WSPP Agreement, as amended from time to time (the "WSPP Agreement"). The WSPP Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the WSPP Agreement or the Tariff (as defined herein below).

ARTICLE 1. DEFINITIONS

- 1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer from a Replacement Unit in accordance with the terms of Section 4.5.
- 1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body of competent jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.
- 1.3 "Availability Incentive Payments" has the meaning set forth in the Tariff.
- 1.4 "Availability Standards" shall mean the availability standards set forth in Section 40.9 of the Tariff.
- 1.5 "Buyer" has the meaning specified in the introductory paragraph hereof.
- 1.6 "CAISO" means the California Independent System Operator Corporation or its successor.
- 1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of Section 1.51 of the WSPP Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."
- 1.8 "Confirmation" has the meaning specified in the introductory paragraph hereof.
- 1.9 "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.
- 1.10 "Contingent Firm RA Product" has the meaning specified in Section 3.2 hereof.
- 1.11 "Contract Price" means, for any Monthly Delivery Period, the price specified for such Monthly Delivery Period in the "RA Capacity Price Table" set forth in Section 4.9.
- 1.12 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.
- 1.13 "CPUC Decisions" means, to the extent still applicable, CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050 and subsequent decisions related to resource adequacy, as may be amended from time to time by the CPUC.
- 1.14 "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE's to demonstrate compliance with the CPUC's resource adequacy program.

- 1.15 "Delivery Period" has the meaning specified in Section 4.1 hereof.
- 1.16 "Delivery Point" has the meaning specified in Section 4.2 hereof.
- 1.17 "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product (including any Alternate Capacity) for such Showing Month, minus (i) any reductions to Contract Quantity made by Seller pursuant to Section 4.4 and for which Seller has not elected to provide Alternate Capacity; and (ii) any reductions resulting from an event other than a Non-Excusable Event.
- 1.18 "Flexible RA Attributes" means any and all flexible resource adequacy attributes, as may be identified at any time during the Delivery Period by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward Flexible RAR, exclusive of any RA Attributes and LAR Attributes.
- 1.19 "Flexible RAR" means the flexible resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.
- 1.20 "Flexible RAR Showing" means the Flexible RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.
- 1.21 "Forced Outage" means the removal from service availability of a generating unit, transmission line, or other facility for emergency reasons, or the condition in which the equipment is unavailable due to unanticipated failure (such unanticipated failure does not include a Fuel Impediment).
- 1.22 "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.
- 1.23 "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA of competent jurisdiction over the LSE. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.
- 1.24 "LAR Attributes" means, with respect to a Unit, any and all local resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC, CAISO, LRA, or other Governmental Body of competent jurisdiction, associated with the physical location or point of electrical interconnection of such Unit within the CAISO Control Area, that can be counted toward LAR, exclusive of any RA Attributes and Flexible RA Attributes. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in payments made pursuant to this Transaction.
- 1.25 "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.
- 1.26 "Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.
- 1.27 "LRA" means Local Regulatory Authority as defined in the Tariff.
- 1.28 "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).
- 1.29 "WSPP Agreement" has the meaning specified in the introductory paragraph hereof.

- 1.30 "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.
- 1.31 "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.
- 1.32 "Net Qualifying Capacity" has the meaning set forth in the Tariff.
- 1.33 "Non-Excusable Event" means any event, other than a Planned Outage, a Forced Outage, or an event of Uncontrollable Force, that causes Seller to fail to perform its obligations under this Confirmation, including, without limitation, any such event resulting from (a) the negligence of the owner, operator or Scheduling Coordinator of a Unit, or (b) Seller's failure to comply, or failure to cause the owner, operator or Scheduling Coordinator of the Units to comply, with the terms of the Tariff with respect to the Units providing RA Attributes, Flexible RA Attributes or LAR Attributes, as applicable.
- 1.34 "Notification Deadline" has the meaning specified in Section 4.5 hereof.
- 1.35 "Outage" means any CAISO approved disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff.
- 1.36 "Planned Outage" means, subject to and as further described in the CPUC Decisions, a CAISO-approved, planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.
- 1.37 "Product" has the meaning specified in Article 3 hereof.
- 1.38 "RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward RAR, exclusive of any LAR Attributes and Flexible RA Attributes.
- 1.39 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR or LAR and, if applicable, Flexible RAR purposes for the Delivery Period, as determined by the CAISO or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RA Attributes, LAR Attributes, and if applicable, Flexible RA Attributes of the capacity provided by a Unit.
- 1.40 "RAR" means the resource adequacy requirements (other than Local RAR or Flexible RAR) established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.
- 1.41 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction.
- 1.42 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.
- 1.43 "Replacement Unit" has the meaning specified in Section 4.5.
- 1.44 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.
- 1.45 "Scheduling Coordinator" has the same meaning as in the Tariff.
- 1.46 "Seller" has the meaning specified in the introductory paragraph hereof.
- 1.47 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.
- 1.48 "Supply Plan" means the supply plan, or similar or successor filing, that a Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other applicable Governmental Body pursuant to Applicable Laws in order for the RA Attributes or LAR Attributes of such RA Capacity to count.

- 1.49 "Tariff" means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time. For purposes of Article 5, the Tariff refers to the tariff and protocol provisions of the CAISO as they exist on the Confirmation Effective Date.
- 1.50 "Transaction" for purposes of this Agreement means the Transaction (as defined in the WSPF Agreement) that is evidenced by this Agreement.
- 1.51 "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.
- 1.52 "Unit EFC" means the effective flexible capacity that is or will be set by the CAISO for the applicable Unit.
- 1.53 "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. The Parties agree that if the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, that for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, or (ii) the CAISO-adjusted Net Qualifying Capacity.

ARTICLE 2. UNIT INFORMATION

Name	Indigo Peaker Unit 3
Location	Palm Springs, CA
CAISO Resource ID	INDIGO_1_UNIT 3
Unit SCID	CRLP
Unit NQC	- 42 MWs
Unit EFC	42 MWs
Resource Type	LLM6000 Peaker
Resource Category (1, 2, 3 or 4)	4
Flexible RAR Category (1, 2 or 3)	1
Path 26 (North or South)	South
Local Capacity Area (if any, as of Confirmation Effective Date)	LA Basin
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	N/A
Run Hour Restrictions	N/A

ARTICLE 3. RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Agreement, RA Attributes or LAR Attributes and, if applicable, Flexible RA Attributes for a Contingent Firm RA Product, as specified in Section 3.2 below (the "Product"). The Product does not confer to Buyer any right to the electrical output from the Units. Rather, the Product confers the right to include the Designated RA Capacity in RAR Showings, LAR Showings, Flexible RAR Showings, if applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell any RA Capacity from a Unit in excess of that Unit's Contract Quantity and any RA Attributes, LAR Attributes or Flexible RA Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RA Attributes, LAR Attributes and Flexible RA Attributes

Seller shall provide Buyer with the Designated RA Capacity of RA Attributes, LAR Attributes and, if Section 3.3 is selected, Flexible RA Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units. If those Units are not available to provide the full amount of the Contract Quantity as a result of a Non-Excusable Event, then, subject to Section 4.4, Seller shall have the option to notify Buyer in writing by the Notification Deadline that either (a) Seller will not provide the full Contract Quantity during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Buyer with the Contract Quantity as a result of a Non-Excusable Event and has failed to notify Buyer in writing by the Notification Deadline that it will not provide the full Contract Quantity during the period of such non availability as provided in Section 4.4, then Seller shall be liable for damages and/or required to indemnify Buyer for any resulting penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof. Notwithstanding anything herein to the contrary, if Seller provides less than the full amount of the Contract Quantity for any reason other than a Non-Excusable Event or in accordance with Section 4.4, Seller is not obligated to provide Buyer with Alternate Capacity or to indemnify Buyer for any resulting penalties or fines. The Product is a Contingent Firm RA Product, and with respect to this Contingent Firm RA Product, "Contingent Firm" shall have the same meaning as "Unit Firm" in the WSPF Agreement.

3.3 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of Flexible RA Attributes from the Unit(s) in the amount of the applicable Contract Quantity.

ARTICLE 4. DELIVERY AND PAYMENT**4.1 Delivery Period**

The Delivery Period shall be: January 1, 2019, through December 31, 2019, inclusive.

4.2 Delivery Point.

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity. The Contract Quantity for each Monthly Delivery Period shall be:

Contract Quantity (MWs)

Contract Month	RAR or LAR Contract Quantity (MWs)	RAR or LAR with Flexible RAR Contract Quantity (MWs)
January	N/A	12
February	N/A	12
March	N/A	12
April	N/A	12
May	N/A	12
June	N/A	12
July	N/A	12
August	N/A	12
September	N/A	12
October	N/A	12
November	N/A	12
December	N/A	12

4.4 Adjustments to Contract Quantity

- (a) **Planned Outages:** If Seller is unable to provide the applicable Contract Quantity for a portion of a Showing Month due to a Planned Outage of a Unit, then Seller shall have the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to either (a) reduce the Contract Quantity in accordance with the Planned Outage for such portion of the Showing Month; or (b) provide Alternate Capacity up to the Contract Quantity for the applicable portion of such Showing Month.
- (b) **Invoice Adjustment:** In the event that the Contract Quantity is reduced due to a Planned Outage as set forth in Section 4.4(a) above, then the invoice for such month(s) shall be adjusted to reflect a daily pro rata amount for the duration of such reduction.
- (c) **Reductions in Unit NQC and/or Unit EFC:** Seller's obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC and/or Unit EFC as determined by the CAISO. If the Unit experiences such a reduction in Unit NQC and/or Unit EFC, then Seller has the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product, and/or (ii) Alternate Capacity.

4.5 Notification Deadline and Replacement Units

- (a) The "Notification Deadline" in respect of a Showing Month shall be ten (10) Business Days before the earlier of the relevant deadlines for (a) the corresponding RAR Showings and/or LAR Showings for such Showing Month, and (b) the CAISO Supply Plan filings applicable to that Showing Month.
- (b) If Seller desires to provide the Contract Quantity of Product for any Showing Month from a generating unit other than the Unit (a "Replacement Unit"), then Seller may, at no additional cost to Buyer, provide Buyer with Product from one or more Replacement Units, up to the Contract Quantity, for the applicable Showing Month; provided that in each case, Seller shall notify Buyer

in writing of such Replacement Units no later than the Notification Deadline. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for the remaining portion of that Showing Month.

- (c) If Seller fails to provide Buyer the Contract Quantity of Product or Alternate Capacity for a given Showing Month during the Delivery Period, then (i) Buyer may, but shall not be required to, purchase Product from a third party; and (ii) Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if such failure is the result of (A) a reduction in the Contract Quantity for such Showing Month in accordance with Section 4.4, or (B) an event other than a Non-Excusable Event.

4.6 Delivery of Product

- (a) Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month.
- (b) Seller shall submit, or cause the Unit's Scheduling Coordinator to submit, by the relevant deadlines for submission of the Supply Plans applicable to that Showing Month (i) Supply Plans to the CAISO, LRA, or other applicable Governmental Body identifying and confirming the Designated RA Capacity to be provided to Buyer for the applicable Showing Month, unless Buyer specifically requests in writing that Seller not do so; and (ii) written confirmation to Buyer that Buyer will be credited with the Designated RA Capacity for such Showing Month per the Unit's Scheduling Coordinator Supply Plan.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month, and such failure is not excused under the terms of the Agreement, then the following shall apply:

- (a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RA Attributes, LAR Attributes and, if applicable, Flexible RA Attributes as the Designated RA Capacity not provided by Seller; provided, however, that if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having solely RA Attributes and no LAR Attributes or Flexible RA Attributes, and no such RA Capacity is available, then Buyer may replace such portion of the Designated RA Capacity with capacity having any applicable Flexible RA Attributes and/or LAR Attributes ("Replacement Capacity") by entering into purchase transactions with one or more third parties, including, without limitation, third parties who have purchased capacity from Buyer so long as such transactions are done at prevailing market prices. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.
- (b) Seller shall pay to Buyer at the time set forth in Section 21 of the WSPP Agreement, the following damages in lieu of damages specified in Section 21 of the WSPP Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, and (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a); and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Section 28 of the WSPP Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Subject to any adjustments made pursuant to Section 4.4, Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

- (a) Seller's failure to provide any portion of the Designated RA Capacity due to a Non-Excusable Event;

- (b) Seller's failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Sections 3.2, 4.4 and 4.5; or
- (c) A Unit Scheduling Coordinator's failure to timely submit accurate Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Section 9 of the WSPP Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears, after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be prorated to reflect any portion of Designated RA Capacity that was not delivered pursuant to Section 4.4 at the time of the CAISO filing for the respective Showing Month.

RA CAPACITY PRICE TABLE

Contract Month	RA Capacity Price (\$/kW-month)
January	\$3.50
February	\$3.50
March	\$3.50
April	\$3.50
May	\$3.50
June	\$3.50
July	\$3.50
August	\$3.50
September	\$3.50
October	\$3.50
November	\$3.50
December	\$3.50

4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, Flexible RAR Showing, as may be applicable, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. Any

Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (e) above). In accordance with Section 4.9 of this Confirmation and Section 9 of the WSPP Agreement, all such Buyer revenues received by Seller, or a Unit's Scheduling Coordinator, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit's Scheduling Coordinator, owner, or operator fails to remit those revenues to Buyer. If Seller or the Unit's Scheduling Coordinator, owner, or operator (as applicable) fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Section 28 of the WSPP Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

ARTICLE 5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event other than a Non-Excusable Event, that results in a partial or full outage of that Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit's Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.

ARTICLE 6. [RESERVED]

ARTICLE 7. OTHER BUYER AND SELLER COVENANTS

7.1 Further Assurances

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's applicable RAR, LAR and Flexible RAR. Such commercially reasonable actions shall include, without limitation:

- (a) Cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable RAR, LAR, and Flexible RAR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CPUC, the CAISO, a LRA of competent jurisdiction, or other Governmental Body of competent jurisdiction to administer the applicable RAR, LAR and Flexible RAR, to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, pursuant to the "deliverability" standards established by the CAISO or other Governmental Body of competent jurisdiction.
- (b) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, or other Governmental Body of competent jurisdiction to administer the applicable RAR,

LAR and Flexible RAR, so as to maintain the purpose and intent of the Transaction agreed to by the Parties on the Confirmation Effective Date. The above notwithstanding, the Parties are aware that the CPUC and CAISO are considering changes to RAR and/or LAR in CPUC Rulemaking 11-10-023 and potentially other proceedings.

7.2 Seller Representations and Warranties

Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

- (a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, the CAISO, the CPUC, a LRA of competent jurisdiction, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;
- (b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy such third party's applicable RAR, LAR or Flexible RAR or analogous obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit's owner or operator;
- (c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR or Flexible RAR, or analogous obligations in any non-CAISO market;
- (d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;
- (e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, in accordance with General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;
- (f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity, RAR, LAR and Flexible RAR;
- (g) If Seller is the owner of any Unit, the aggregation of all amounts of applicable LAR Attributes, RA Attributes and Flexible RA Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit's RA Capacity;
- (h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit's Scheduling Coordinator is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, RAR, LAR and Flexible RAR;
- (i) Seller has notified the Scheduling Coordinator of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the Scheduling Coordinator is obligated to deliver the Supply Plans in accordance with the Tariff;
- (j) Seller has notified the Scheduling Coordinator of each Unit that Seller is obligated to cause each Unit's Scheduling Coordinator to provide to the Buyer, by the Notification Deadline, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and
- (k) Seller has notified each Unit's Scheduling Coordinator that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such Scheduling Coordinator is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 8. CONFIDENTIALITY

In addition to the rights and obligations in Section 30 of the WSPP Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA of competent jurisdiction in order to support its applicable LAR, RAR or Flexible RAR Showings, if applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the

Scheduling Coordinator of each Unit in order for such Scheduling Coordinator to timely submit accurate Supply Plans.

ARTICLE 9. BUYER'S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder.

ARTICLE 10. MARKET BASED RATE AUTHORITY

Upon Buyer's written request, Seller shall, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller shall not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

ARTICLE 11. COLLATERAL REQUIREMENT

The Parties acknowledge that a liquid market for the Product does not presently exist; thus, there is no reliable index for the Product. Accordingly, the Parties agree that for the purposes of calculating the Collateral Requirement pursuant to Paragraphs 3 and/or 10 of the Collateral Annex, as applicable, the Current Mark-to-Market Value for this Transaction shall be deemed to be zero. If, during the Delivery Period, a liquid market for the Product develops and a reliable index for the Product is established, the Parties shall meet and confer to determine whether to adopt such index for purposes of determining the Current Mark-to-Market Value for the Transaction from such time through the end of the Delivery Period.

ARTICLE 12. WSPP AGREEMENT AMENDMENTS

12.1 WSPP Agreement Amendments. For purposes of this Transaction only, the WSPP Agreement shall be amended as follows:

- (a) Section 4 of the WSPP Agreement is amended by adding "or the Friday after the United States Thanksgiving holiday" before the period at the end of the first sentence.
- (b) The following definition of "Unit Firm" is added to Section 4 of the WSPP Agreement in alphabetical order:

"Unit Firm" means, with respect to a Transaction, that the Product subject to the Transaction is intended to be supplied from a generation asset or assets specified in the Transaction. Seller's failure to deliver under a "Unit Firm" Transaction shall be excused: (i) if the specified generation asset(s) are unavailable as a result of a Forced Outage (as defined in the NERC Generating Unit Availability Data System (GADS) Forced Outage reporting guidelines) or (ii) by an event or circumstance that affects the specified generation asset(s) so as to prevent Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, and which is not within the reasonable control of, or the result of the negligence of, the Seller or (iii) by Buyer's failure to perform. In any of such events, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Section 21 of the WSPP Agreement."

- (c) The sentence "**ALL OTHER DAMAGES OR REMEDIES ARE HEREBY WAIVED.**" in Section 21.1 of the WSPP Agreement is deleted in its entirety and replaced with the following:

"LIMITATION OF DAMAGES. FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES IS THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY FOR THE BREACH SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES FOR DAMAGES AT

LAW OR IN EQUITY ARE WAIVED. IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, SUCH DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE."

- (d) Sections 22.1(d) and 27 of the WSPP Agreement shall not apply to either Party with respect to this Transaction.
- (e) Section 24 of the WSPP Agreement is deleted and replaced with the following:
 "This WSPP Agreement and any Confirmation shall be governed by and construed, enforced and performed in accordance with the laws of the State of California, without regard to principles of conflicts of law or contrary provisions of the WSPP Agreement, if any."
- (f) Subsections 34.1 and 34.2 of the WSPP Agreement are hereby deleted and replaced with the following:
 "34.1 Waiver of Jury Trial. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, CLAIM OR PROCEEDING RELATING TO THIS AGREEMENT."
 The rest of Section 34 of the WSPP Agreement shall be re-numbered accordingly.
- (g) Section 35 of the WSPP Agreement is modified by inserting the following paragraph between the first and second sentences: "The Parties agree that each Party's business consists in whole or in part of entering into forward contracts as or with merchants in capacity or energy, which is presently the subject of dealing in the forward contract trade. The Parties further agree that the transactions entered into pursuant to any Confirmations hereunder (as provided in Article 32 of the WSPP Agreement) are forward contracts involving the sale of capacity and/or energy, which are presently the subject of dealing in the forward contract trade. No Party shall assert before any court or other governmental authority either that another Party is not, or shall not be treated as, a forward contract merchant or that the transaction entered into pursuant, to any Confirmations hereunder (as provided in Article 32 of the WSPP Agreement) are not, or shall not be treated as, forward contracts under the United States Bankruptcy Code."
- (h) Section 35 of the WSPP Agreement is further modified by adding the following sentence at the end:
 "City of Banning represents and warrants that it is:
 (i) a federal agency;
 (ii) a state, state agency, city, county, municipality, or other political subdivision of a state;
 (iii) an employee benefit plan, as defined in Section 3 of the Employee Retirement Income Security Act of 1974;
 (iv) a governmental plan, as defined in Section 3 of the Employee Retirement Income Security Act of 1974;
 (v) an endowment, including an endowment that is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986; or
 (vi) a "special entity" as defined in Section 4s(h)(2)(C) of the U.S. Commodity Exchange Act and 17 C.F.R. § 23.401(c)."

- (i) The following phrase is inserted at the beginning of Section 37: "On the date of entering into this Confirmation,".
- (j) Section 41 "Witness" of the WSPP Agreement shall become Section 42 and the following "Standard of Review" Section shall be inserted as Section 41:

"The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such Party), a non-party or FERC acting sua sponte, shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008), and *NRG Power Marketing LLC v. Maine Public Utility Commission*, 558 U.S. 527 (2010).

(ii) In addition, and notwithstanding the foregoing subsection (i), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this subsection (ii) shall not apply, provided that, consistent with the foregoing subsection (i), neither Party shall seek any such changes except solely under the "public interest" application of the "just and reasonable" standard of review and otherwise as set forth in the foregoing section (i).

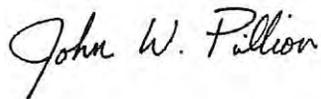
(iii) The Parties, for themselves and their successors and assigns, (a) agree that this "public interest" standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this WSPP Agreement and (b) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the "just and reasonable" standard."

[Signatures on Following Page]

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

SHELL ENERGY NORTH AMERICA (US), L.P.

CITY OF BANNING



By:

By:

Name: John W. Pillion

Name:

Title: Confirmations Team Lead

Title:

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Laurie Sampson, Executive Assistant

MEETING DATE: April 10, 2018

SUBJECT: Ordinance 1520 “An Ordinance of the City Council of the City of Banning Amending Existing Sections of Chapter 12.52 of the Banning Municipal Code that Established a Local Development Mitigation Fee for Funding the Preservation of Natural Ecosystems in Accordance with the Western Riverside County Multiple Species Habitat Conservation Plan to Bring Those Sections into Conformance with the Updated Standards and Provisions”

RECOMMENDED ACTION:

The City Council adopt the above referenced Ordinance 1520 to bring Section 12.52 of the Banning Municipal Code into Conformance with updated standards and provision.

BACKGROUND:

Ordinance 1305 “An Ordinance of the City Council and the City of Banning Establishing a Local Development Mitigation Fee for Funding the Preservation of Natural Ecosystems in Accordance with the Western Riverside County Multiple Species Habitat Conservation Plan” (MSHCP) was adopted by the City Council on November 12, 2003.

In accordance with the Implementing Agreement, the City previously imposed the Local Development Mitigation Fee as analyzed in the Nexus Fee Report, which has been codified in Chapter 12.52, Western Riverside County Multiple Species Habitat Conservation Plan, of Title 13, Public Services, of the Banning Municipal Code.

JUSTIFICATION:

Pursuant to the Fiscal Year 2017 Annual Audit conducted by the Western Riverside County Regional Conservation Authority, it has been recommended that the City update certain language in Chapter 12.52 to maintain continued consistency with the model ordinance.

FISCAL IMPACT:

None

OPTIONS:

1. Approve as recommended
2. Do not approve and provide alternate plan

ATTACHMENTS:

1. Ordinance 1520
2. Ordinance 1305
3. Western Riverside County Regional Conservation Authority 2017 Annual Audit

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

Ordinance 1520

ORDINANCE 1520

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, AMENDING EXISTING SECTIONS OF CHAPTER 12.52 OF THE BANNING MUNICIPAL CODE THAT ESTABLISHED A LOCAL DEVELOPMENT MITIGATION FEE FOR THE FUNDING AND PRESERVATION OF NATURAL ECOSYSTEMS IN ACCORDANCE WITH THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN TO BRING THOSE SECTIONS INTO CONFORMANCE WITH THE UPDATED STANDARDS AND PROVISIONS

WHEREAS, the City of Banning ("City") previously adopted the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"), and is a party to the related Implementing Agreement to preserve the ability of affected property owners to make reasonable use of their land consistent with the requirements of the National Environmental Policy Act ("NEPA"), the California Environmental Quality Act ("CEQA"), the Federal Endangered Species Act ("FESA"), the California Endangered Species Act ("CESA"), the California Natural Community Conservation Planning Act ("NCCP Act") and other applicable laws; and

WHEREAS, in accordance with the Implementing Agreement, the City previously adopted an ordinance imposing the Local Development Mitigation Fee as analyzed in the Nexus Fee Report, which has been codified in Chapter 12.52, Western Riverside County Multiple Species Habitat Conservation Plan, of Title 13, Public Services, of the Banning Municipal Code; and

WHEREAS, the Implementing Agreement requires that the City's ordinance be substantially in the same form or at a minimum, containing the same requirements as the model ordinance incorporated into the Implementing Agreement; and

WHEREAS, pursuant to the 2017 Annual Audit conducted by the Western Riverside County Regional Conservation Authority, it has been recommended that the City update certain language in Chapter 12.52 to maintain continued consistency with the model ordinance.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 12.52.020 (Definitions) of Article I, of Chapter 12.52 (Western Riverside County Multiple Species Habitat Conservation Plan) of Title 12 (Public Services) of the Banning Municipal Code, is hereby amended to add the following definitions:

"City" means the City of Banning, California.

"City Council" means the City Council of the City of Banning, California.

“Ordinance” means Chapter 12.52 of Title 13, of the Banning Municipal Code.”

SECTION 2. Subdivision (B) of Section 12.52.120 (Accounting and Disbursement of Collected Local Development Mitigation Fees) of Article II (MSHCP Mitigation Fee) of Chapter 12.52 (Western Riverside County Multiple Species Habitat Conservation Plan) of Title 12 (Public Services) of the Banning Municipal Code, is hereby amended to read as follows:

“B. Subject to the provisions of this section, all fees collected pursuant to this article shall be remitted to the Western Riverside County Regional Conservation Authority at least ~~quarterly~~ monthly, and will be expended solely for the purpose of acquiring and preserving vegetation communities and natural areas within the city and the region which support species covered in the MSHCP in accordance with the provisions of the MSHCP.”

SECTION 3. Except as otherwise expressly amended by this Ordinance, the provisions of Chapter 12.52 shall remain unchanged and continue in full force and effect.

SECTION 4. SEVERABILITY

If any section, subsection, clause or phrase or portion of this code is for any reason declared to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of all other provisions of this ordinance. The Mayor and City Council hereby declare that it would have passed the ordinance codified in this chapter; and each section, subsection, sentence, clause and phrase or portion thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases or portions thereof be declared invalid or unconstitutional.

SECTION 5. CEQA

The adoption of this Ordinance is not a “project” under the California Environmental Quality Act because the Ordinance does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4). This Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility the addition of certain definitions and amendment to the timing of fee payments to the Western Riverside County Regional Conservation Authority will result in a permanent alteration of property or the construction of any new or expanded structures, or have any other direct or indirect physical changes in the environment, and therefore will not have any potential to significantly affect the environment.

SECTION 6. 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 and the proceedings of the City Council at which time 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) calendar days after its final passage, the City Clerk shall cause a summary of this Ordinance to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California. The City Clerk shall cause the Ordinance to be printed, published, and circulated.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon, APC

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance 1520 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ____ day of April, 2018, and was duly adopted at a regular meeting of said City Council on the ____ day of _____, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 2

Ordinance 1305

ORDINANCE NO. 1305

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING ESTABLISHING A LOCAL DEVELOPMENT MITIGATION FEE FOR FUNDING THE PRESERVATION OF NATURAL ECOSYSTEMS IN ACCORDANCE WITH THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN.

WHEREAS, the City Council of the City of Banning ("City") finds that the ecosystems of the City and western Riverside County, and the vegetation communities and sensitive species they support are fragile, irreplaceable resources that are vital to the general welfare of all residents;

WHEREAS, these vegetation communities and natural areas contain habitat value which contributes to the City's and the region's environmental resources;

WHEREAS, special protections for these vegetation communities and natural areas must be established to prevent future endangerment of the plant and animal species that are dependent upon them;

WHEREAS, adoption and implementation of this Ordinance will help to enable the City to achieve the conservation goals set forth in the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"), adopted by the City Council on November 12, 2003, to implement the associated Implementing Agreement executed by the City Council on November 12, 2003, and to preserve the ability of affected property owners to make reasonable use of their land consistent with the requirements of the National Environmental Policy Act ("NEPA"), the California Environmental Quality Act ("CEQA"), the Federal Endangered Species Act ("FESA"), the California Endangered Species Act ("CESA"), the California Natural Community Conservation Planning Act ("NCCP Act") and other applicable laws;

WHEREAS, the purpose and intent of this Ordinance is to establish a Local Development Mitigation Fee to assist in the maintenance of biological diversity and the natural ecosystem processes that support this diversity; the protection of vegetation communities and natural areas within the City and western Riverside County which are known to support threatened, endangered or key sensitive populations of plant and wildlife species; the maintenance of economic development within the City by providing a streamlined regulatory process from which development can proceed in an orderly process; and the protection of the existing character of the City and the region through the implementation of a system of reserves which will provide for permanent open space, community edges, and habitat conservation for species covered by the MSHCP;

WHEREAS, the findings set forth herein are based on the MSHCP and the studies referenced therein, and the estimated acquisition costs for such property as set forth in the MSHCP, a copy of which is on file in the City Clerk's office;

WHEREAS, pursuant to Article 11, Section 7 of the California Constitution, the City is authorized to enact measures that protect the health, safety and welfare of its citizens;

WHEREAS, pursuant to Government Code sections 66000 et seq., the City is empowered to impose fees and other exactions to provide necessary funding and public facilities required to mitigate the negative effect of new development projects;

WHEREAS, on November 12, 2003 the City Council took action on the MSHCP and the associated Implementing Agreement, and made appropriate findings pursuant to CEQA; and

WHEREAS, pursuant to Government Code sections 66016, 66017 and 66018, the City has: (a) made available to the public, at least ten (10) days prior to its public hearing, data indicating the estimated cost required to provide the facilities and infrastructure for which these development fees are levied and the revenue sources anticipated to provide those facilities and infrastructure; (b) mailed notice at least fourteen (14) days prior to this meeting to all interested parties that have requested notice of new or increased development fees; and (c) held a duly noticed, regularly scheduled public hearing at which oral and written testimony was received regarding the proposed fees.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. The City Council finds and determines as follows:

A. The preservation of vegetation communities and natural areas within the City and western Riverside County which support species covered by the MSHCP is necessary to protect and promote the health, safety and welfare of all the citizens of the City by reducing the adverse direct, indirect and cumulative effects of urbanization and development and providing for permanent conservation of habitat for species covered by the MSHCP.

B. It is necessary to enact and implement certain development impact fees to ensure that all new development within the City pays its fair share of the costs of acquiring and preserving vegetation communities and natural areas within the City and the region which are known to support plant and wildlife species covered by the MSHCP.

C. A proper funding source to pay the costs associated with mitigating the direct, indirect and cumulative impacts of development to the natural ecosystems within the City and the region, as identified in the MSHCP, is a development impact fee for residential, commercial, and industrial development. The amount of the fee is determined by the nature and extent of the impacts from the development to the identified natural ecosystems and or the relative cost of mitigating such impacts.

D. The MSHCP and the Nexus Fee Report, a copy of which is on file in the City Clerk's office, provides a basis for the imposition of development impact fees on new construction.

E. The use of the development impact fees to mitigate the impacts to the City's and the region's natural ecosystems is reasonably related to the type and extent of impacts caused by development within the City.

F. The costs of funding the proper mitigation of natural ecosystems and biological resources impacted by development within the City and the region are apportioned relative to the type and extent of impacts caused by the development.

G. The facts and evidence provided to the City establish that there is a reasonable relationship between the need for preserving the natural ecosystems in the City and the region, as defined in the MSHCP, and the direct, indirect and cumulative impacts to such natural ecosystems and biological resources created by the types of development on which the fee will be imposed, and that there is a reasonable relationship between the fee's use and the types of development for which the fee is charged. This reasonable relationship is described in more detail in the MSHCP and the Nexus Fee Report.

H. The cost estimates for mitigating the impact of development on the City's and the region's natural ecosystem and biological resources, as set forth in the MSHCP, are reasonable and will not exceed the reasonably estimated total of these costs.

I. The fee set forth herein does not reflect the entire cost of the lands which need to be acquired in order to implement the MSHCP and mitigate the impact caused by new development. Additional revenues will be required from other sources. The City Council finds that the benefit to each development project is greater than the amount of the fee to be paid by the project.

J. The fees collected pursuant to this Ordinance shall be used to finance the acquisition of the natural ecosystems and certain improvements described or identified in the MSHCP.

SECTION 2: ARTICLE II is hereby added to Chapter 33 of the Banning Ordinance Code. It is entitled "MSHCP Mitigation Fee". Article II shall read as follows:

SECTION 33-10. ADMINISTRATIVE RESPONSIBILITY. The Community Development Director and the Public Works Director of the City shall be jointly responsible for the administration of this Article II of Chapter 33. Detailed administrative procedures concerning the implementation shall be established and set forth in a resolution adopted by the City Council.

SECTION 33-11. DEFINITIONS. As used in this Article II, the following terms shall have the following meanings:

- A.** Certificate of Occupancy means a certificate of occupancy issued by the City in accordance with all applicable ordinances, regulations, and rules of the City and state law.
- B.** Credit means a credit allowed pursuant to Section 33-12 of this Article II, which may be applied against the development impact fee paid.
- C.** Development Project or Project means any project undertaken for the purpose of development pursuant to the issuance of a building permit by the City pursuant to all applicable ordinances, regulations, and rules of the City and state law.
- D.** Final Inspection means a final inspection of a project as defined by the building codes of the City.
- E.** Gross Acreage means the total property area as shown on a land division map of record, or described through a recorded legal description of the property. This area shall be bounded by road right-of-way and/or legal property lines.
- F.** Local Development Mitigation Fee or Fee means the development impact fee imposed pursuant to the provisions of this Article II.
- G.** Multiple Species Habitat Conservation Plan or MSHCP means the Western Riverside County Multiple Species Habitat Conservation Plan, adopted by the City Council on November 12, 2003.
- H.** MSHCP Conservation Area has the same meaning and intent as such term is defined and utilized in the MSHCP.
- I.** Project Area means the area, measured in acres, from the adjacent road right-of-way line to the limits of project improvements. Project Area includes all project improvements and areas that are disturbed as a result of the project improvements on an owner's Gross Acreage, including all areas depicted on the forms required to be submitted to the City pursuant to this Ordinance and/or other applicable development ordinance or regulation of the City. Except as otherwise provided herein, the Project Area is the area upon which the project will be assessed the Local Development Mitigation Fee.
- J.** Residential Unit means a building or portion thereof used by one family and containing but one kitchen, which unit is designed or occupied for residential purposes, including single-family, multiple-family dwellings, and mobile homes on a permanent foundations, but not including hotels and motels.

K. Revenue or Revenues means any funds received by the City pursuant to the provisions of this Ordinance for the purpose of defraying all or a portion of the cost of acquiring and preserving vegetation communities and natural areas within the City and the region which are known to support threatened, endangered or key sensitive populations of plant and wildlife species.

L. Western Riverside County Regional Conservation Authority means the governing body established pursuant to the MSHCP that is delegated the authority to oversee and implement the provisions of the MSHCP.

SECTION 33-12. LOCAL DEVELOPMENT MITIGATION FEE. To assist in providing Revenue to acquire and preserve vegetation communities and natural areas within the City and western Riverside County which are known to support threatened, endangered or key sensitive populations of plant and wildlife species, a Local Development Mitigation Fee shall be paid for each Development Project or portion thereof to be constructed within the City. The following fee shall be paid for each Development Project to be constructed within the City. The fees are calculated using an Equivalent Benefit Unit methodology:

- Residential, density less than 8.0 dwelling units per acre - \$1,651 per dwelling unit
- Residential, density between 8.1 and 14.0 dwelling units per acre - \$1,057 per dwelling unit
- Residential, density greater than 14.1 dwelling units per acre - \$859 per dwelling unit
- Commercial - \$5,620 per acre
- Industrial - \$5,620 per acre

A. The amount of the Local Development Mitigation Fee shall be calculated on the basis of the acreage of the Project Area, in accordance with the following:

1. The Project Area shall be determined by City staff based on the subdivision map, plot plan, and other information submitted to or required by the City.

2. An applicant may elect, at his or her own expense, to have a Project Area dimensioned, calculated, and certified by a registered civil engineer or licensed land surveyor. The engineer or land surveyor shall prepare a wet-stamped letter of certification of the Project Area dimensions and a plot plan exhibit thereto that clearly delineates the Project Area. Upon receipt of the letter of certification and plot plan exhibit, the City shall calculate the Local Development Mitigation Fee required to be paid based on the certified Project Area.

3. Where construction or other improvements on Project Area are prohibited due to legal restrictions on the Project Area, such as Federal Emergency Management Agency designated

floodways or areas legally required to remain in their natural state, that portion of the Project Area so restricted shall be excluded for the purpose of calculating the Local Development Mitigation Fee.

SECTION 33-13. IMPOSITION OF THE LOCAL DEVELOPMENT MITIGATION FEE. Notwithstanding any other provision of the City's Municipal Code, no permit shall be issued for any Development Project except upon the condition that the Local Development Mitigation Fee applicable to such Development Project has been paid.

SECTION 33-14. PAYMENT OF LOCAL DEVELOPMENT MITIGATION FEE.

A. The Local Development Mitigation Fee shall be paid in full in accordance with applicable law.

B. The Local Development Mitigation Fee shall be assessed one time per lot or parcel, except when additional construction or improvement on the lot or parcel results in the disturbance of additional area.

C. The Local Development Mitigation Fee required to be paid under this Article II shall be the fee in effect at the time of payment.

D. Notwithstanding anything in the City's Municipal Code, or any other written documentation to the contrary, the Local Development Mitigation Fee shall be paid whether or not the Development Project is subject to conditions of approval by the City imposing the requirement to pay the fee.

E. If all or part of the Development Project is sold prior to payment of the Local Development Mitigation Fee, the Project shall continue to be subject to the requirement to pay the fee as provided herein.

SECTION 33-15. REFUNDS. There shall be no refund of all or part of any Local Development Mitigation Fee paid under this Ordinance except in cases of overpayment or miscalculation of the applicable fee. Only in cases of overpayment or miscalculation of the fee will the person or entity that paid the Local Development Mitigation Fee be entitled to a refund.

SECTION 33-16. ACCOUNTING AND DISBURSEMENT OF COLLECTED LOCAL DEVELOPMENT MITIGATION FEES.

A. All fees paid pursuant to this Article II shall be deposited, invested, accounted for, and expended in accordance with Section 66006 of the Government Code and all other applicable provisions of law.

B. Subject to the provisions of this section, all fees collected pursuant to this Ordinance shall be remitted to the Western Riverside County Regional Conservation Authority at least

quarterly, and will be expended solely for the purpose of acquiring and preserving vegetation communities and natural areas within the City and the region which support species covered in the MSHCP in accordance with the provisions of the MSHCP.

C. The City may recover the costs of administering the provisions of this Ordinance using the Revenues generated by the fees, in an amount and subject to the rules and regulations established by the Western Riverside County Regional Conservation Authority.

SECTION 33-17. AUTOMATIC ANNUAL FEE ADJUSTMENT. The fee established by this Article II shall be revised annually by means of an automatic adjustment at the beginning of each fiscal year based on the average percentage change over the previous calendar year set forth in the Construction Price Index for the Los Angeles metropolitan area. The first fee adjustment shall not be made prior to a minimum of ten (10) months subsequent to the effective date of this Article II.

SECTION 33-18. EXEMPTIONS. The following types of construction shall be exempt from the provisions of this Article II:

A. Reconstruction or improvements that are damaged or destroyed by fire or other natural causes.

B. Rehabilitation, remodeling, or minor additions to an existing Development Project.

C. Secondary residential units, constructed on developed residential property and meeting all state and City requirements for such units.

D. Existing improvements that are converted from an existing permitted use to a different permitted use, provided that no additional area of the property is disturbed as a result of such conversion.

E. Development on a Project Area that is currently or has been previously improved.

F. Guest houses or dwellings, as permitted by law.

SECTION 33-19. FEE CREDITS AND WAIVERS. Any Local Development Mitigation Fee credit that may be applicable to a Development Project, or any partial or full waiver of a Local Development Mitigation Fee that may be applicable to a Development Project, shall be determined by the City in cooperation with the Western Riverside County Regional Conservation Authority, which shall have an auditing role in this process.

SECTION 3. SEVERABILITY. This Ordinance and the various parts, sections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall be affected thereby. If any part, sentence, paragraph, section, or clause of this Ordinance, or its application to

clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall be affected thereby. If any part, sentence, paragraph, section, or clause of this Ordinance, or its application to

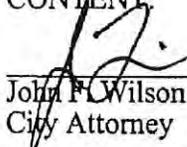
any person entity is adjudged unconstitutional or invalid, such unconstitutionality or invalidity shall affect only such part, sentence, paragraph, section, or clause of this Ordinance, or person or entity; and shall not affect or impair any of the remaining provision, parts, sentences, paragraphs, sections, or clauses of this Ordinance, or its application to other persons or entities. The City Council hereby declares that this Ordinance would have been adopted had such unconstitutional or invalid part, sentence, paragraph, section, or clause of this Ordinance not been included herein; or had such person or entity been expressly exempted from the application of this Ordinance.

SECTION 4. EFFECTIVE DATE. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City of Banning, and thereupon and thereafter this Ordinance shall take effect and be in force according to law.

PASSED, APPROVED, AND ADOPTED, this 12th day of November, 2003.


Arthur L. Welch, Mayor
City of Banning, California

APPROVED AS TO FORM AND
CONTENT:


John F. Wilson
City Attorney

ATTEST:


Marie A. Calderon
City Clerk, City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1305 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 28th day of October, 2003, and was duly adopted at a regular meeting of said City Council on the 12th day of November, 2003, by the following vote, to wit:

AYES: Councilmembers Hanna, Machisic, Salas, Mayor Welch

NOES: Councilmember Palmer

ABSENT: None

ABSTAIN: None



Marie A. Calderon
City Clerk, City of Banning

ATTACHMENT 3

Western Riverside County Regional Conservation
Authority Annual Audit

**WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION AUTHORITY**

**INDEPENDENT ACCOUNTANT'S REPORT ON
APPLYING AGREED-UPON PROCEDURES FOR THE
CITY OF BANNING**

FOR THE YEAR ENDED JUNE 30, 2017



BROWN ARMSTRONG

Certified Public Accountants

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

To the Board of Directors
Western Riverside County Regional Conservation Authority

We have performed the procedures enumerated in Attachment A, which were agreed to by the management of the Western Riverside County Regional Conservation Authority (RCA) solely to assist you in determining that Multiple Species Habitat Conservation Plan (MSHCP) fees were collected and remitted by the City of Banning (City) in accordance with the MSHCP Implementing Agreement and the Joint Exercise of Powers Agreement (JPA creating the RCA dated January 27, 2004) for the fiscal year ending June 30, 2017. The City is responsible for the collection and remittance of MSHCP fees. The sufficiency of these procedures is solely the responsibility of the management of the RCA. Consequently, we make no representations regarding the sufficiency of the procedures described in Attachment A, either for the purpose for which this report has been requested or for any other purpose.

Our procedures and results are listed in Attachment A.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion on the collection and remittance of MSHCP fees. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the management and the Board of Directors of the RCA and is not intended to be, and should not be, used by anyone other than those specified parties.

BROWN ARMSTRONG
ACCOUNTANCY CORPORATION

Bakersfield, California
March 19, 2018

**BAKERSFIELD OFFICE
(MAIN OFFICE)**

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TEL 661.324.4971
FAX 661.324.4997
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FRESNO OFFICE

10 RIVER PARK PLACE
EAST SUITE 208
FRESNO, CA 93720
TEL 559.476.3592

LAGUNA HILLS OFFICE

23272 MILL CREEK DRIVE
SUITE 255
LAGUNA HILLS, CA 92653
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STOCKTON OFFICE

5250 CLAREMONT
AVENUE
SUITE 150
STOCKTON, CA 95207
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**WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION AUTHORITY
AGREED-UPON PROCEDURES AND RESULTS – CITY OF BANNING
FOR THE YEAR ENDED JUNE 30, 2017
ATTACHMENT A**

Our procedures and results are as follows:

1. Obtain any updates to the Member Agency's ordinance for collection of the Multiple Species Habitat Conservation Plan (MSHCP) fees.

Results – No updates were noted. We obtained Ordinance No. 1305, which established the development mitigation fee for funding the preservation of ecosystems in accordance with the MSHCP.

2. Upon obtaining the updates, determine if the ordinance is in accordance with the MSHCP Implementing Agreement and Joint Powers Agreement (JPA).

Results – The Western Riverside County Regional Conservation Authority (RCA) prepared a model ordinance for the member agencies to be in accordance with the MSHCP Implementing Agreement and JPA. The City of Banning (the City) ordinance was in agreement with the model ordinance except for the following:

- Section 3 of the model ordinance includes definitions for "City," "City Council," and "Ordinance," which are not included in the City ordinance.
- Section 8.B of the model ordinance requires that fees collected pursuant to the ordinance shall be remitted to the RCA at least monthly. The City ordinance requires that fees collected pursuant to the ordinance shall be remitted to the RCA at least quarterly.

3. Determine if fees on the building permits are collected in accordance with the Member Agency ordinance.

Results – The City ordinance stated that the MSHCP fee must be collected prior to issuance of the permit. We inspected a sample of 25 permits as described in procedure 5 below as a result of this procedure.

4. Obtain the schedule of fees collected on MSHCP building permits for the year ended June 30, 2017.

Results – We obtained the schedule from the City noting the total amount collected for building permits for the year ended June 30, 2017 was \$0.

5. Obtain a listing of building permits issued during the year ended June 30, 2017. Identify the new construction and commercial permits. Select for testing 10% of new construction or commercial building permits, selecting no less than 25 permits or 100% of permits if total permits for new construction or commercial is less than 25.

Results – We obtained the population of 825 issued permits for the period from July 1, 2016 through June 30, 2017. From the listing, we identified new construction and commercial permits (identified through permit type – OFFC, RMSM, STRE, MFGH, CADD, SFD, CHRC, DEM1, OTIM, and OTRC), noting a total of 70 permits issued during the year. We selected 25 new construction and commercial permits.

Our sample consisted of the following:

- 1 building permit was exempt under Section 33-18.A of the City's ordinance as reconstruction or improvements that are damaged or destroyed by fire or other natural causes.
- 19 building permits were exempt under Section 33-18.B of the City's ordinance as rehabilitation, remodeling, or minor additions to an existing Development Project.
- 3 building permits are exempt under Section 33-18.C of the City's ordinance as secondary residential units constructed on developed residential property is exempt from fees.
- 1 building permit was exempt under Section 33-18E of the City's ordinance as development on a project area that has been previously improved is exempted from paying MSHCP fees.
- 1 building permit was subject to the MHCP fee, but approval for deferring payment due was approved by the RCA.

We made inquiries of City personnel, inspected building permits and other documentation to support the granting of the exemptions under the City ordinance. No exceptions were noted.

6. Recalculate the fees collected by the Member Agency on building permits to determine if they are correct and if the correct amounts have been remitted to the RCA. If fees are incorrect, determine the fees that should have been collected and remitted.

Results – For the sample selected in Procedure 5 above, none of the permits were subject to the MSHCP fee.

7. Determine if fees collected on building permits were remitted on a timely basis to the RCA.

Results – For the sample selected in Procedure 5 above, none of the permits were subject to the MSHCP fee.

8. Determine additional amounts, if any, which should be returned to the Member Agency for building permits.

Results – None noted.

9. If amounts are due to the RCA on building permits, calculate interest owed, based on the RCA's Resolution No. 07-04 adopted on September 10, 2007, using the interest rate paid by the Riverside County Treasury on amounts held by the County of Riverside.

Results – Procedure not applicable.

10. Obtain a list of all infrastructure and civic contracts awarded by the Member Agency during the fiscal year.

Results – We obtained a list of 10 infrastructure and civic contracts awarded by the City during the year ended June 30, 2017.

11. Select a sample of 10% of the contracts for testing, selecting no less than three contracts, or 100% of contracts if the total number of contracts is less than three.

Results – We haphazardly selected three infrastructure and civic contracts from the list provided.

12. Compute the amounts of MSHCP contributions on the infrastructure and civic contracts that should have been remitted.

Results – The City asserted that both infrastructure and civic contracts selected for inspection were exempt. We inspected the contracts, project descriptions, and other supporting documentation summarized as follows:

- Street Improvements Project 2016-03 awarded December 12, 2016 – The City asserted this project was exempt under Section 1.A.2 of the RCA's fee collection and remittance policy as a maintenance and safety project, as defined in Section 7 of the MSHCP. The project involved replacement and installation of sidewalks, driveways, curbs and gutters, access ramps; removal of potholes and repair of trenches. The project was awarded for amount of \$944,000. No exceptions were noted.
- Roosevelt Williams Park Project 2016-04 awarded July 11, 2017 – The City asserted this project was exempt under Section 1.A.2 of the RCA's fee collection and remittance policy as a maintenance and safety project, as defined in Section 7 of the MSHCP. The project facilitated replacement of playground equipment, construction of new multipurpose field, basketball court, walkways. The project was awarded \$2,585,178. No exceptions were noted.
- Tank Inspections and Cleaning Project 2017-02W awarded July 12, 2017 – The City asserted this project was exempt under Section 1.A.2 of the RCA's fee collection and remittance policy as a maintenance and safety project, as defined in Section 7 of the MSHCP. The project was for the regular cleaning and inspection of water storage tanks. The project was awarded \$44,129. No exceptions were noted.

13. Determine if the MSHCP contributions on the infrastructure and civic contracts were remitted to the RCA within 90 days of contract award.

Results – Procedure not applicable.

14. Determine additional amounts on infrastructure and civic contracts, if any, which should be remitted to the RCA or returned to the Member Agency.

Results – Procedure not applicable.

15. If additional amounts are due to the RCA on infrastructure and civic contracts, calculate interest owed, using the interest rate paid by the Riverside County Treasury on amounts held by the County of Riverside.

Results – Procedure not applicable.

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Patty Nevins, Community Development Director

MEETING DATE: April 10, 2018

SUBJECT: Consideration of a one-year extension and increase in compensation to an existing professional services agreement for Building & Safety Services with Charles Abbott Associations, Inc.

RECOMMENDED ACTION:

That the City Council adopt Resolution 2018-36 approving a one-year extension to an existing Professional Services Agreement between the City of Banning and Charles Abbott Associates, Inc. to provide Building & Safety services to the City of Banning through June 30, 2019 and amending the agreement to increase the compensation rate paid to 91% of building permit fees and plan check fees collected by the City.

ALTERNATIVES:

1. Approve the alternative proposal for 68% of building permit and plancheck fees plus \$50.00 per hour counter/permit technician fee structure;
2. Do not approve the Professional Services Agreement and direct staff with to issue a Request for Proposals (RFP) for Building & Safety services.

BACKGROUND:

On March 30, 2015, the Community Development Department released a Request for Proposals seeking a professional consulting firm to provide Building & Safety Services to the City in the following areas: Building Official Administrative Services; Public Counter Assistance; Building Permit Plan Checking; Building Inspection Services; and, Building Abatement. The Request for Proposals was posted on the

City's website and was published in the Record Gazette on April 3, 2015 (Attachment 4).

Charles Abbott Associates (CAA) scored the highest evaluation rating and also submitted the lowest proposed fee. Subsequently, at its June 23, 2015 meeting, the City Council accepted staff's recommendation and awarded the contract for Building & Safety services to Charles Abbott Associates. The contract was approved for a three-year period, with the possibility of two additional years of extensions. The agreement was entered into on June 30th, 2015 and will expire on June 30, 2018 unless extended.

The 2015 Agreement with CAA has previously been amended four (4) times and includes:

- On October 14, 2015, Amendment No. 1 to the Agreement was approved to include Engineering Services on an as-needed basis in an amount not to exceed \$125,000.
- On July 1, 2016, Amendment No. 2 to the Agreement was approved to extend the contract term by 180 days.
- On January 10, 2017, Amendment No. 3 to the Agreement was approved to extend the contract term and add compensation of \$75,000 for the Engineering Services scope of services.
- On June 29, 2017, Amendment No. 4 to the Agreement was approved to include additional compensation for additional Building and Safety Services performed during fiscal year 2017 in the amount of Thirteen Thousand Five-Hundred Dollars (\$13,500), for a total contract amount not to exceed Six-Hundred Eighteen Thousand Five-Hundred Dollars (\$618,500).

ANALYSIS:

Charles Abbott Associates provides the following main personnel and services as part of their contract with the City:

- Building Official – The building official is at City offices on an as-needed basis and provides staff reports, verbal reports, written memo, correspondence as necessary, and general oversight of contract Building & Safety staff;
- Permit/Counter Technician – The Permit Technician is at City offices Monday through Friday from 8:00 am to 5:00pm. The permit technician provides general building permit information to the public, keeps daily phone and counter logs, processes building permits, provides monthly reports, responds to public records requests, prepares fee estimates for proposed new projects and businesses, and enters plans into the City's building permit system (Naviline). The technician also prepares and collects Development Impact Fees (DIFs), Transportation Uniform Mitigation Fees

(TUMF), and Multiple Species Habitat Conservation Plan (MSHCP) fees as well as assisting in quarterly and annual audits by WRCOG and RCA.

- Building Inspector/building inspection services - The Building Inspector provides daily inspection services (inspections requested by 4:00 pm are provided the following business day, and same day inspections for emergency or urgent matters), reviews permit packages against field conditions, reports/records inspection results, and maintains inspections records.
- Plan review services – Plan review staff consists of ICC certified plans examiners as well as California Licensed Engineers. Plan reviewers perform reviews of plans to ensure compliance with state and local building codes.

For each of the services listed, CAA provides backup staff such that if one of their employees (e.g. the permit technician or inspector) is ill or needs to be out of the office, other personnel are brought in to ensure that services are provided continuously during working hours.

CAA has provided a proposal with two fee options, both of which are higher than their current fee rate. CAA indicates that the current fee proposal was based on a level of work that has not materialized, and that the higher fee level is necessary to continue providing services at current levels. CAA points out that, despite the increase, their proposed fees remain lower than those of all other 2015 RFP respondents.

The current fee charged is based on a scaled percentage wherein CAA's fee is based on building permit and plan check fees as follows: CAA fees are 65% of fees collected up to \$15,000; CAA fees are 55% of amounts over \$15,001 to \$30,000; and CAA fees are 50% of additional amounts over \$30,001.

CAA has provided a proposal with two options:

- The first option would be an increase in the percentage of fees collected, up from a range of between 55% and 65% to a straight 91% of building permit and plan check fees collected. All services would be included in the 91% figure.
- The second option is a percentage increase, up from a range of between 55% and 65% to a straight 68% of building permit and plan check fees collected combined with an hourly charge of \$50 per hour for the Building Permit/Counter Technician.

With CAA's proposed change in the fee structure, the extension and amendment is being forwarded to the City Council for review and determination.

JUSTIFICATION

CAA's proposal remains lower than previous proposals received (see figures provided in Attachment 5) Based on this, in combination with the high level of service provided by CAA personnel and the likelihood (based on the previous RFP) that a new RFP would not result in lower costs, staff recommends approval of the extension with the proposed modification by applying the first option for increase in compensation which would apply an across-the-board 91% fee of building permit fees and plan check fees collected by the City. The extension would be for a period of one year, at which point the contract would be re-evaluated for a possible one-year extension (the last extension provided for in the contract).

Staff recommends amending the agreement to:

- (i) extend the Agreement for one (1) additional year;
- (ii) augment the compensation structure from between 50% to 65% of building permit and plan check fees collected by the City up to 91% of building permit and plan check application fees received by the City as proposed by CAA; and,
- (iii) increase the overall maximum compensation for Building and Safety Services to be performed during fiscal year 2019 in the amount of Two Hundred Eighty-Nine Thousand Five-Hundred Seventy Dollars (\$289,870,00) for a total contract amount not to exceed Nine Hundred Eight Thousand Three-Hundred Seventy Dollars (\$908,370.00)

FISCAL IMPACT:

Staff estimates that the first option for fees at 91% of building permit and plancheck fees would result in an approximately \$95,463 increase in cost for the fiscal year 2018/2019 over costs expected under the current contract percentages; the total amount to be added to the contract would be \$289,570. This increase was arrived at by applying CAA's average percentage of 62% over the past two years to estimated building permit revenues for fiscal year 2018/2019 (staff estimated a 20% increase over current year revenues, and estimated 2017/2018 totals using an average of the past months to project final yearly revenues).

Staff estimates that the second option for 68% combined with an hourly permit technician rate would result in an approximately \$113,547 increase in cost for fiscal year 2018/2019 over costs that would be expected under the current contract percentages. Under this second option, the total amount to be added to the contract would be \$320,382.

ATTACHMENTS:

1. Resolution 2018-36
2. CAA Contract Extension Letter Proposal
3. Draft Contract Amendment
4. CAA Contract
5. Original Contract Staff Report Excerpt with Request for Quote (RFQ) Information (excludes attachments)

Approved by:



Rochelle Clayton, Interim City Manager

ATTACHMENT 1

Resolution 2018-36

RESOLUTION NO. 2018-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT WITH CHARLES ABBOTT ASSOCIATES, INC. FOR BUILDING & SAFETY SERVICES

WHEREAS, on June 23, 2015, the City Council approved a Professional Services Agreement with Charles Abbott Associates to provide Building & Safety Services for a three (3) year period with an option for two additional years. As a result, Charles Abbot Associates has provided Building & Safety Services for an approximately (3) three year period; and

WHEREAS, on October 14, 2015, Amendment No. 1 to the Agreement was approved to include Engineering Services on an as-needed basis in an amount not to exceed \$125,000; and

WHEREAS, on July 1, 2016, Amendment No. 2 to the Agreement was approved to extend the contract term by 180 days; and

WHEREAS, on January 10, 2017, Amendment No. 3 to the Agreement was approved to extend the contract term and add compensation of \$75,000 for the Engineering Services scope of services; and

WHEREAS, on June 29, 2017, Amendment No. 4 to the Agreement was approved to include additional compensation for additional Building and Safety Services performed during fiscal year 2017 in the amount of Thirteen Thousand Five-Hundred Dollars (\$13,500), for a total contract amount not to exceed Three-Hundred Forty-Eight Thousand Five-Hundred Dollars (\$348,500); and

- **WHEREAS**, City and Consultant now desire to further amend the Agreement to:
(i) extend the Agreement for one (1) additional year; (ii) to increase the compensation paid to Consultant from between 50% to 65% of building permit and plan check fees collected by the City up to 91% of building permit and plan check application fees received by the City; and (iii) to increase the overall maximum compensation for Building and Safety Services to be performed during fiscal year 2019 in the amount of Two Hundred Eighty-Nine Thousand Five-Hundred Seventy Dollars (\$289,870.00) for a total contract amount not to exceed Nine Hundred Eight Thousand Three-Hundred Seventy Dollars (\$908,370.00)

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

Section I: Action. The City Council hereby approves Amendment No. 5 to the

2015 Professional Services Agreement between the City and Charles Abbott Associates, Inc., a copy of which is attached to the Staff Report for this item. This authorization will be rescinded if the Contract Services Agreement is not executed by both parties within sixty (60) days of the date of this Resolution.

Section II: Authorization. The City Council hereby authorizes the Interim City Manager to execute Amendment No. 5 to the Professional Services Agreement with Charles Abbott Associates, Inc. in the form that is approved by the City Attorney.

PASSED, ADOPTED AND APPROVED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning, California

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

Kevin Ennis, City Attorney
Richards Watson & Gershon

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2018-36 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 10th day of April, 2018.

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 2

CAA Contract Extension Letter Proposal



March 29, 2018

City of Banning
Patty Nevins, Community Development Director
99 East Ramsey Street
Banning, CA 92220

RE: Contract Renewal

Patty,

This letter is to follow up on our conversation last week regarding the upcoming contract renewal. As you may recall, we discussed that the originally proposed fee structure needs modification to allow us to continue to provide services after June 30, 2018. In order to renew the contract, we propose one of the following options;

1. Increase the percent of fee for CAA to 91% or,
2. Increase the percent of fee for CAA to 68% and bill the counter tech position at \$50.00 per hour for 40 hours work week.

CAA is very appreciative of the relationship we have had with the City of Banning for the last 3 years. We are grateful for the opportunity to serve the City of Banning and are confident that we raised the level of professionalism and customer service for the City and its customers. We are hopeful that we can continue to provide this service for years to come. If you have any questions, please let me know.

Sincerely,

Jim Barrett, CBO
Project Manager

CHARLES ABBOTT ASSOCIATES, INC.

27401 LOS ALTOS • SUITE 220 • MISSION VIEJO, CA 92691

TOLL FREE: (866) 530-4980 • PHONE: (949) 367-2850 • FAX: (949) 367-2852

WWW.CAAPROFESSIONALS.COM

ATTACHMENT 3

Draft Contract Amendment

AMENDMENT #5 TO THE AGREEMENT FOR CONTRACTUAL SERVICES

THIS AMENDMENT TO THE AGREEMENT FOR CONTRACTUAL SERVICES (“Amendment”) by and between the **CITY OF BANNING** (“City”) and **CHARLES ABBOTT ASSOCIATES INC.**, a California corporation (“Consultant”) is effective as of the 10th day of April, 2018.

RECITALS

A. City and Contractor entered into that certain Agreement for Professional Services dated June 30, 2015 (“Agreement”) whereby Consultant agreed to provide Building and Safety Services, including Building Official Administrative Services, Public Counter Assistance; Building Permit Plan Checking; Building Inspector Services; and Building Abatement in the not to exceed an amount of \$405,000.

B. On October 14, 2015, Amendment No. 1 to the Agreement was approved to include Engineering Services on an as-needed basis in an amount not to exceed \$125,000.

C. On July 1, 2016, Amendment No. 2 to the Agreement was approved to extend the contract term by 180 days.

D. On January 10, 2017, Amendment No. 3 to the Agreement was approved to extend the contract term and add compensation of \$75,000 for the Engineering Services scope of services.

E. On June 29, 2017, Amendment No. 4 to the Agreement was approved to include additional compensation for additional Building and Safety Services performed during fiscal year 2017 in the amount of Thirteen Thousand Five-Hundred Dollars (\$13,500), for a total contract amount not to exceed Six-Hundred Eighteen Thousand Five-Hundred Dollars (\$618,500).

F. City and Consultant now desire to further amend the Agreement to: (i) extend the Agreement for one (1) additional years; (ii) to increase the compensation paid to Consultant from between 50% to 65% of building permit and plan check fees collected by the City up to 91% of building permit and plan check application fees received by the City; and (iii) to increase the overall maximum compensation for Building and Safety Services to be performed during fiscal year 2019 in the amount of Two Hundred Eighty-Nine Thousand Five-Hundred Seventy Dollars (\$289,870.00), for a total contract amount not to exceed Nine Hundred Eight Thousand Three-Hundred Seventy Dollars (\$908,370.00).

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein.

(a) Section 2.1 is amended to read as follows:

“2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, for Building and Safety Services to be performed during fiscal year 2019 and shall not exceed Two Hundred Eighty-Nine Thousand Five-Hundred Seventy Dollars (\$289,870.00), for a total contract amount not to exceed Nine Hundred Eight Thousand Three-Hundred Seventy Dollars (\$908,370.00).”

(b) Compensation (Exhibit C-1): Exhibit “C” (Schedule of Compensation), Part I (Consultant Rates) is hereby amended to increase the percentage of Building Permit Fees and Plan Check Fees Collected per month for Year Four, (4) and Five, (5) that are to be paid as compensation to Contractor to Ninety-One Percent, (91%) of those fees collected by the City and shall read as follows:

Building Permit Fee and Plan Check Fee	CAA % of Fees Year 4	Year 5
Collected Per Month		
The first \$15,000	91%	91%
Amounts over \$15,001 to \$30,000	91%	91%
Additional amounts over \$30,001	91%	91%

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 tie 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 not

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.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY:

CITY OF BANNING

Rochelle Clayton, Interim City Manager

ATTEST:

Sonja De La Fuente, Deputy City Clerk

APPROVED AS TO FORM:

Kevin G. Ennis, Esq., City Attorney

CONSULTANT:

By: _____
Name:
Title:

By: _____
Name:
Title:
Address:

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

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

On _____, 2017 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

<input type="checkbox"/> CAPACITY CLAIMED BY SIGNER <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> CORPORATE OFFICER <input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL <input type="checkbox"/> ATTORNEY-IN-FACT <input type="checkbox"/> TRUSTEE(S) <input type="checkbox"/> GUARDIAN/CONSERVATOR <input type="checkbox"/> OTHER _____ SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	DESCRIPTION OF ATTACHED DOCUMENT _____ TITLE OR TYPE OF DOCUMENT _____ NUMBER OF PAGES _____ DATE OF DOCUMENT _____ SIGNER(S) OTHER THAN NAMED ABOVE
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ATTACHMENT 4

CAA Contract

PROFESSIONAL SERVICES AGREEMENT

By and Between

CITY OF BANNING

and

Charles Abbott Associates, Inc.

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE CITY OF BANNING AND
CHARLES ABBOT ASSOCIATES, INC.**

THIS AGREEMENT FOR CONTRACT SERVICES (herein“ Agreement”) is made and entered into this 30th day of June, 2015 by and between the City of Banning, a municipal corporation (“City”) and Charles Abbott Associates, Inc. (“Consultant”). City and Consultant are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties”). Consultant

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Banning’s Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which services may be referred to herein as the “services” or “work” hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase “highest professional standards” shall mean those

standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

This Agreement shall include the Request for Proposal or Invitation for Bids ("Contract Documents") and the Scope of Service shall include the Consultant's scope of work or in Consultant's accepted bid proposal ("Accepted Bid") shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the Contract Documents, Accepted Bid, and/or this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual cost of the extra services, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed the amount as attached in Exhibits "C" (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services less contract retention; (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City may independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to

Consultant for correction and resubmission. Review and payment by the City of any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer shall extend the time for performance in accordance with the procedures set forth in Section 1.10. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant (“Principals”) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

<u>Rusty Reed</u> (Name)	<u>President</u> (Title)
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<u>Gregg Robinson</u> (Name)	<u>Director</u> (Title)
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It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Principals were a substantial inducement for City to enter into this Agreement. Therefore, the Principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desire to reassign any staff or subcontractor of Consultant, Consultant shall, immediately upon reassign notice from City of such desire of City, reassign such persons or persons.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant’s officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant’s officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City’s employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Consultant’s responsibility to assure that the Contract Officer is kept informed of the

progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Workers Compensation Insurance. A policy of workers compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Consultant and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

(f) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

Agent's Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or

entity for which Consultant is legally liable (“indemnors”), or arising from Consultant’s reckless or willful misconduct, or arising from Consultant’s or indemnors’ negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys’ fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys’ fees.

Consultant shall incorporate similar, indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City’s sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City’s negligence, except that design professionals’ indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

In addition, Consultant agrees to indemnify, defend and hold harmless the Indemnified Parties from, any and all claims and liabilities for any infringement of patent rights, copyrights or trademark on any person or persons in consequence of the use by the Indemnified Parties of articles to be supplied by Consultant under this Agreement, and of which the Consultant is not the patentee or assignee or has not the lawful right to sell the same.

5.4 Sufficiency of Insurer or Surety.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated “A” or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City (“Risk Manager”) due to unique circumstances. If this Agreement continues for more than 3

years duration, or in the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such

documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall proceed with payment on the invoices only when the default is cured. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Consultant and its sureties shall be liable for and shall pay to the City the sum of N/A as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Consultant any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this

Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate Authority.

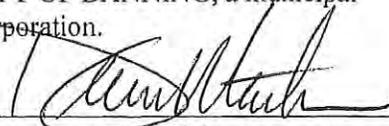
The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY:

CITY OF BANNING, a municipal corporation.

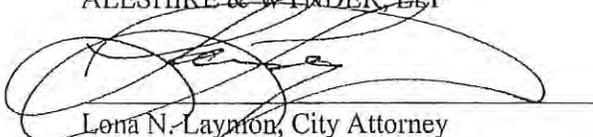

Dean Martin, Interim City Manager

ATTEST:


Marie Calderon, City Clerk

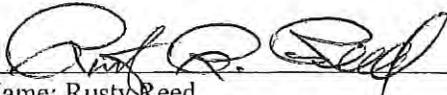
APPROVED AS TO FORM:

ALESHIRE & WYNDR, LLP


Lena N. Laymon, City Attorney

CONSULTANT:

Charles Abbott Associates, Inc.

By: 
Name: Rusty Reed
Title: President

By: 
Name: Gregg Robinson
Title: Director

Address: 27401 Los Altos #220

Mission Viejo, CA 92691

(866) 530-4980

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 CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)
On July 2nd before me, Sherry Halsey Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Greg Robinson, Rusty Reed
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 Sherry Halsey
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: City of Banning Contract Document Date: July 2nd, 2015
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Greg Robinson
 Corporate Officer — Title(s) _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: CAA

Signer's Name: Rusty Reed
 Corporate Officer — Title(s) _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: CAA

EXHIBIT "A"

SCOPE OF SERVICES

I. Consultant will perform the following Services:

A. Chief Building Official Administrative Services

1. Services will include overseeing the City's building inspections, code compliance, abatement, and acts as the official City representative on all building-related matters. Specific responsibilities include, but not limited to:
 - a) Provide quality control review of plan checks and inspections.
 - b) Prepare code updates as required.
 - c) Investigate and provide resolution to complaints and inquiries.
 - d) Provide all Building Official Administration and processing of complex Building Code issues.
 - e) Assist with the implementation and support of an automated permitting system.
 - f) Review applications for compliance with applicable codes.
 - g) Coordinate with Code Enforcement regarding an aggressive abatement program.
 - h) Review and update the Building Safety Procedures Manual as necessary.
 - i) Provide comprehensive monthly reporting, including fee collection reports required by the State of California.
 - j) Process staff reports related to Building & Safety items.
 - k) Attend Planning Commission and City Council meetings as needed.
 - l) Provide after hours and emergency inspection and reports

B. Building & Safety Services

1. Consultant is to provide all personnel required to perform all Building Safety Services, counter, counter assistance, permitting and development activities, inspection, and public inquiries, including, but not limited to:
 - a) Provide front counter support during regular City Hall hours, 7:00am to 6:00pm, Monday through Thursday or during amended hours, if applicable.
 - b) Provide building inspection during the hours of 7:30am – 5pm, Monday through Friday. Inspections will be conducted no later than the following working day if request is received before 2pm.
 - c) Process building permits during regular City Hall hours.
 - d) Provide the plan review of any and all types of structures including, but not limited to, single family dwellings, multi-family dwellings, industrial and commercial buildings, as well as grading and improvement review for compliance with all local ordinances and State and Federal laws that pertain to Building and Safety, and for compliance with the adopted California Building Code, California Residential Code, California Plumbing Code, California Electrical Code, and California Mechanical Code, Title 24, and the City Municipal Code. Plan review will be performed in-house and off-site.
 - e) Provide plan check monitoring and permit issuance for grading, building electrical, mechanical and plumbing work, etc.
 - f) Provide inspection services. Inspectors assigned to the City will perform periodic construction inspections to verify that the work of construction is in conformance with the approved project plans, as well as identifying issues of non-compliance with applicable codes. Projects under construction by permit from the City will be inspected for compliance with the State of California Building, Mechanical, Plumbing, Electrical, Energy, Green Building, and Accessibility Codes as adopted by the State

and amended by the City, as well as a working familiarity with the Fire Codes although CAA understands that fire code plan review will continued to be performed by Calfire. Inspectors are accessible and available to meet with the project design team and/or the client's representatives to work out problems and help resolve issues quickly and efficiently. CAA will provide one certified Senior Building Inspector to the City, available during the field hours of 7:30am to 5:00pm. Additional inspectors will be available as required by workload. A CAA Building Inspector will be available at all times to conduct urgent building inspections, should they arise.

- g) Handle resident inquiries and resolve complaints, as required.
- h) Process public records requests.
- i) Review and update the Building/Safety Procedures Manual.
- j) Provide annual reporting to satisfy reporting requirements.
- k) Assist with construction and demolition debris recycling.
- l) Provide Building Code Abatement administration and inspection.
- m) Prepare for and attend pre-development review meetings.
- n) Prepare statistical reports as required.
- o) Maintain records and prepare documents for storage or imaging.

C. Plan Review Services

1. Consultant will examine building plans for compliance with the adopted Building Code, California Mechanical Code, California Plumbing Code, California Electrical Code, and the Accessibility, Noise and Energy Conservation Requirements as mandated by State Title 24 and all applicable City ordinances.
2. All Plan review will comply with the City's directives, codes, and policies. Plan check will include a review of all of the following design elements as determined by the City:
 - a. Architectural
 - b. Structural

- c. Mechanical
- d. Plumbing
- e. Electrical
- f. Energy (Title 24)
- g. Accessibility (California Building Code Title 24)

D. Included Duties, Responsibilities, and information

1. Consultant will ensure that all Building and Safety duties and follow-up is provided in a timely and responsive manner and adheres to the Service Timeframe for Delivery.

The Consultant shall be responsible to ensure all personnel assigned to the City of Banning have sufficient on-going training to perform their assigned duties. In addition, the consultant shall have at least one Certified Access Specialist (CASp) on staff. The Consultant will also be required to furnish at least two copies of the latest adopted building code, including one copy to the City Clerk for the official City record and to keep those materials up to date and shall maintain high quality services.

- a) Provide staff that are assigned to be at the City full-time, are customer service oriented, and have experience with successfully managing multiple tasks, assignments and responsibilities.
- b) Ensure that it has assigned personnel with contract and coverage information clearly communicated to the City – that are required to be available to respond to emergency situations that may require Building and Safety services at times when City Hall is closed for business.
- c) Will strictly adhere to your policies and procedures regarding confidentiality, public release of information, and communications with media.
- d) Assist the City in digitizing the backlog of building plans and permits, and suggests the use of its permitting system to facilitate the day-forward management of plans and permits.

- e) Tracks and controls project costs and will provide timely invoices through the company's payroll and accounting systems. Employees enter their time into the CAA payroll system from the primary workstation. The data is checked weekly by the Project Manager for accuracy and validity. CAA's administrative staff will prepare a monthly invoice per the agreement with the City. All invoices will be reviewed by the project manager prior to submittal to the City for payment.

E. Additional Programs

- 1. Consultant will provide qualified personnel to serve as the City's Community Outreach Coordinator on an hourly basis. The Community Outreach Coordinator will possess excellent customer serve skills and will support the City in proactively addressing potential code enforcement issues with the public. The individual will be familiar with code requirements and resolve problems relating to code compliance.

II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:

A. Plan Review Services

- 1. The applicant will be provided with typewritten plan check comments in an approved format that will be prepared with the layperson in mind so that the comments are easily understood.
- 2. The plan check comments are to refer to appropriate sheets, details or calculations pages and the code sections of the concerns. Comments shall specify the apparent code deficiency.
- 3. For electronic plan check, the contractor is to review plans and transmit the electronic redlined plans back to the applicant and/or the City as directed in either electronic or hard copy format.

B. Building Inspection Services

- 1. Inspections are to be provided daily.
- 2. The building inspector shall review the permit package to verify that the on-site condition is consistent with the appropriate records of square footage, setbacks, heights, and other requirements that may be applicable to the particular request for inspections.

3. The building inspectors are to report/record the inspection results, use City inspection correction forms, make appropriate entries onto the permit documents, and follow City procedures prior to finalizing building permits.
4. Contractor and its inspectors are to maintain all inspection records, including daily records of what was inspected which will be recorded on the job card, permit copy and entered into the Building and Safety computer system.

C. Building Official

1. Provide verbal reports, written memos, staff reports, and correspondences as necessary consistent with the services to be provided as a building official for the City.

D. Permit/Counter Technician

1. Keep daily phone and counter logs related to customers served via telephone and at the building and safety counter.
2. Provide monthly reports of building and safety inspection activities, statistical reports, and annual reports.
3. Provide Permit Fees Sheet(s).
4. Maintain Building and Safety Policies and Procedures Manual
5. Enter plans into the City's Building Permit System (Naviline).

III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City apprised of the status of performance by delivering the following status reports:

- A. Monthly and quarterly report of inspections and fee receipts.
- B. Quarterly report on legislation that affect building and safety.
- C. Suggestions/recommendation on improving building and safety customer service – internal and external.

IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

V. Consultant will utilize the following personnel to accomplish the Services:

- A. James Barrett, CBO/Certified Building Official/Building Inspector

- B. Norma Barrett/Senior Permit Technician.
- C. Mike Moore/Building Inspector.
- D. Steve Ahuna, PE, CBO/Registered Civil Engineer/Certified Plans Examiner
(available to the City part time as needed to perform structural plan reviews).
- E. Renee Meriaux, CBO, CASp, MCP/Plans Examiner and accessibility support.

VI. Consultant must perform all on-call Services in compliance with the following requirements:

- A. The task shall be performed at a cost not to exceeding the Task Budget.
 - 1. As listed in Exhibit "C"

EXHIBIT "B"

**SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)**

Section 5.2 is hereby amended as follows:

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by mail to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN. EXCEPT FOR NON-PAYMENT OF PREMIUM WHEN 10 DAYS NOTICE WILL BE PROVIDED.

[to be initialed]

Agent's Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

Section 3.4 is hereby amended as follows:

3.4 Term

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement for services shall be for the term of three (3) years, commencing from the date of Council award, with the ability to extend the agreement for up to an additional two (2) years. City Council may amend the term at their discretion. This Agreement shall continue in full force and effect until completion of the services but not exceeding five (5) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

EXHIBIT "C"

SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks at the following rates:

Consultant will provide an as-needed Building Official, as-needed Building Inspector, full-time Permit Technician, as-needed CASp, and other supporting personnel and resources to perform all of the building official and building plan check/inspection services for the following percentage of fees collected:

Building Permit Fee and Plan Check Fee	CAA % of Fees	Year 1	Year 2	Year 3
Collected Per month				
The first \$15,000	65%		65%	65%
Amounts over \$15,001 to \$30,000	55%		55%	55%
Additional amounts over \$30,001	50%		50%	50%

Building Permit Fee and Plan Check Fee	CAA % of Fees	Year 4	Year 5
Collected Per month			
The first \$15,000	65%		65%
Amounts over \$15,001 to \$30,000	55%		55%
Additional amounts over \$30,001	50%		50%

- I. A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services.**

- III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task subbudget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.**

- IV. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:**

- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
 - B. Line items for all materials and equipment properly charged to the Services.
 - C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.
 - D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.
- V. **The total compensation for the Services shall not exceed the amount as provided in Section 2.1 of this Agreement.**

EXHIBIT "D"

SCHEDULE OF PERFORMANCE

Plan Review

All initial reviews will be returned within 10 business days for single family residential, small and large commercial projects, and improvement plans. Rechecks will be returned within 5 working days. These are maximum times, and we typically are able to turn around simple plan checks in less than half the time.

Service	Time frame for Delivery
Major plan check	14 calendar days
Subsequent plan checks	7 calendar days
Minor plan checks and single story homeowner additions	3 days or over the counter
Building inspection	Following day if request received before 2pm
Grading plan check	14 calendar days
Subsequent grading plan check	7 calendar days
Assistance at the public counter	Immediate during City Hall hours
Return of phone calls	By end of next business day
Monthly statistical accounting	Completed at the end of each month

Inspection Review

Inspections will be provided on a same-day basis, or within 24 hours' notice if necessary.

- I. Consultant shall perform all Services timely in accordance with the schedule to be developed by Consultant and subject to the written approval of the Contract Officer and the City Attorney's office.**
- II. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.**

ATTACHMENT 5

Original Contract Staff Report Excerpt with
Request for Quote (RFQ) Information
(excludes attachments)

CITY COUNCIL MEETING

DATE: June 23, 2015
TO: City Council
FROM: Brian Guillot, Acting Community Development Director
SUBJECT: Consideration of Contract Services Agreement for Building & Safety Services

RECOMMENDATION:

That the City Council:

- I. Adopt Resolution No. 2015-60 (Attachment 1) approving a Contract Services Agreement with Charles Abbott Associates, Inc. to provide Building & Safety Services; and
- II. Authorize the Interim City Manager to execute the Contract Services Agreement with Charles Abbott Associates, Inc. in the form that is approved by the City Attorney (Attachment 2)

Budget and Finance Committee

On June 15, 2015, the City's Budget and Finance Committee reviewed the proposals and forwarded a recommendation that the City Council approve the Contract Services Agreement with Charles Abbott Associates, Inc. for Building & Safety Services.

JUSTIFICATION:

On July 13, 2011, the City Council approved a Contract Services Agreement with Willdan to provide Building & Safety Services for a one (1) year period. Subsequently, on June 12, 2012, the City Council adopted Resolution No. 2012-44 amending the Contract Services Agreement to continue the services of Willdan for an additional three (3) year period until June 30, 2015. As a result, Willdan has provided Building & Safety Services for a four (4) year period. Pursuant to Section 3.24.070(A)(7) (Formal Bid Procedures) of the Banning Municipal Code, "*no professional service contract shall extend for a period of more than five years, including any authorized extensions.*" Therefore, the City may desire to consider a new Contract Services Agreement so that the City may maintain its Building & Safety functions. By soliciting proposals at this time, the City can ensure the most efficient and cost effective level of service.

BACKGROUND:

On March 30, 2015, the Community Development Department released a Request for Proposals (Attachment 3) seeking a professional consulting firm to provide Building & Safety Services to the City in the following areas: Building Official Administrative Services; Public Counter Assistance; Building Permit Plan Checking; Building Inspection Services; and, Building

Abatement. The Request for Proposals was posted on the City’s website and was published in the Record Gazette on April 3, 2015 (Attachment 4).

On April 30, 2015, submittal deadline, the Community Development Department received seven (7) responses to the Request for Proposals from the following consulting firms (Attachment 6):

Consultant	Location
Bureau Veritas North America, Inc.	Costa Mesa, CA
Charles Abbott Associates, Inc.	Mission Viejo, CA
CSG Consultants, Inc.	Santa Ana, CA
HR Green	Orange, CA
Interwest Consulting Group	Palm Springs, CA
JAS Pacific	Upland, CA
Willdan	San Bernardino, CA

On May 13, 2015, the Community Development Department, represented by an independent committee of three (3) persons, conducted interviews with five (5) of the seven (7) consulting firms. The consulting firms Bureau Veritas North America and JAS Pacific declined to participate in the interview process and, therefore, have been eliminated from consideration of the evaluation process. The rating categories/criteria included: 1) team qualifications; 2) capabilities of the consulting firm; 3) understanding and approach; and, 4) controls of oversight. The following table provides a summary of the interview ratings.

Firm Name	Rater #1	Rater #2	Rater #3	Total
(1) Charles Abbott Associates, Inc.	395	450	410	1,255
(2) Willdan	335	315	340	990
(3) CSG Consultants, Inc.	360	325	295	980
(4) Interwest Consulting Group	335	260	360	955
(5) HR Green	225	180	360	660

Charles Abbott Associates scored the highest at 1,255 total points, with an average rating of 418 points. Charles Abbott Associates also received the highest rating from all three (3) interview raters (Attachment 5). Upon a thorough evaluation of the proposals, staff concurs that Charles Abbott Associates demonstrates the highest level of professional expertise and experience for these services.

As part of their respective proposals, the consulting firms were requested to provide a proposed fee for the provision of the requested Building & Safety Services. The following table provides a summary of the proposed rates.

Consultant	Hourly Rates	Percentage
Charles Abbott Associates, Inc.		
Building Official	N/A	65% for First \$15,000 of Monthly Fees Collected by City.
Building Permit Plan Checking	N/A	
Building Inspection	N/A	
Public Counter Assistance	N/A	
		55% for Amounts Over \$15,001 of Monthly Fees Collected by City.

CSG Consultants, Inc.		
Building Official	\$110	75% of Monthly Fees Collected by City.
Building Permit Plan Checking	N/A	
Building Inspection	\$75	
Public Counter Assistance	\$55	
HR Green		
Building Official	\$135	Unresponsive Fee Proposal, Requires Costs.
Building Permit Plan Checking	\$95-\$150	
Building Inspection	\$90-\$110	
Public Counter Assistance	\$75	
Interwest Consulting Group		
Building Official	N/A	75% of Monthly Fees Collected by City.
Building Permit Plan Checking	N/A	
Building Inspection	N/A	
Public Counter Assistance	\$55	
Willdan		
Building Official	N/A	75% of Monthly Fees Collected by City.
Building Permit Plan Checking	N/A	
Building Inspection	N/A	
Public Counter Assistance	\$59.00	

The following table provides a sample summary of fees based upon a six (6) month sampling of the monthly fees collected by the City from September 2014 through February 2015, which was included in the City's Request for Proposals.

EXAMPLE OF BILLINGS PREVIOUS SIX (6) MONTH'S RECEIPTS			
Consultant	Projected Fee	Fees Collected	City Revenue
Charles Abbott Associates, Inc.			
September 2014	\$11,048 @ 55%	\$20,088	
October 2014	\$9,540 @ 55%	\$17,346	
November 2014	\$3,979 @ 65%	\$6,122	
December 2014	\$14,915 @ 55%	\$27,118	
January 2015	\$5,583 @ 65%	\$8,589	
February 2015	\$8,005 @ 65%	\$12,316	
	\$53,070	\$91,579	\$38,509
CSG Consultants, Inc.			
September 2014	\$15,066 @ 75%	\$20,088	
October 2014	\$13,010 @ 75%	\$17,346	
November 2014	\$4,592 @ 75%	\$6,122	
December 2014	\$20,339 @ 75%	\$27,118	
January 2015	\$6,442 @ 75%	\$8,589	
February 2015	\$9,237 @ 75%	\$12,316	
	\$68,686*	\$91,579	\$22,893*
	*additional hourly rates for Building Official, Building Inspector and Public Counter Assistance		*less additional hourly rates for Building Official, Building Inspector and Public Counter Assistance

HR Green September 2014 October 2014 November 2014 December 2014 January 2015 February 2015	Unresponsive Fee Proposal, Requires Costs.	\$20,088 \$17,346 \$6,122 \$27,118 \$8,589 \$12,316 \$91,579	Unresponsive Fee Proposal, Requires Costs.
Interwest Consulting Group September 2014 October 2014 November 2014 December 2014 January 2015 February 2015	\$15,066 @ 75% \$13,010 @ 75% \$4,592 @ 75% \$20,339 @ 75% \$6,442 @ 75% \$9,237 @ 75% \$68,686* *additional hourly rate of \$55 for Public Counter Assistance	\$20,088 \$17,346 \$6,122 \$27,118 \$8,589 \$12,316 \$91,579	\$22,893* *less additional hourly rate of \$55 for Public Counter Assistance
Willdan September 2014 October 2014 November 2014 December 2014 January 2015 February 2015	\$15,066 @ 75% \$13,010 @ 75% \$4,592 @ 75% \$20,339 @ 75% \$6,442 @ 75% \$9,237 @ 75% \$68,686* *additional hourly rate of \$59 for Public Counter Assistance	\$20,088 \$17,346 \$6,122 \$27,118 \$8,589 \$12,316 \$91,579	\$22,893* *less additional hourly rate of \$59 for Public Counter Assistance

Charles Abbott Associates who scored the highest evaluation rating also submitted the lowest proposed fee for the provision of the requested Building & Safety Services. The consulting firms of CSG Consultants, Interwest Consulting Group, and Willdan were equal in terms collecting a percentage (75%) of the fees collected by the City; however, these three (3) consulting firms had additional hourly rates. HR Green did not provide a proposed fee structure.

Upon a thorough evaluation of the proposals in terms of experience and expertise in correlation with the respective fees, staff concluded that Charles Abbott Associates has submitted the highest qualified team with a competitive fee for the provision of the requested Building & Safety Services.

The following table provides a summary of the cumulative scoring.

Firm Name	Rating Ranking	Fee Ranking	Total Score
Charles Abbott Associates, Inc.	1	1	2
Willdan	2	2	4
Interwest Consulting Group	4	3	7
CSG Consultants, Inc.	3	4	7
HR Green	5	5	10

FISCAL DATA:

Funding for the Building & Safety Services is already included within the Fiscal Year 2016 Budget. Pursuant to the terms of the Contract Services Agreement, Charles Abbott Associates, Inc. will collect a fee of 65% of the fees paid for the first \$15,000, 55% of the fees paid in the amounts from \$15,001 to \$30,000, and 50% of the fees paid in the amounts over \$30,001.

CONCLUSION:

The City's Budget and Finance Committee has forwarded a recommendation to the City Council for the approval of a Contract Services Agreement with Charles Abbott Associates, Inc. of Mission Viejo, California to provide the requested Building & Safety Services.

PREPARED BY:

RECOMMENDED BY:

Oliver Mujica
Contract Planner

Brian Guillot
Acting Community Development Director

APPROVED BY:

Dean Martin
Interim City Manager
Interim Administrative Services Director

Attachments:

1. City Council Resolution No. 2015-60
2. Contract Services Agreement between the City of Banning and Charles Abbott Associates, Inc.
3. Request for Proposals, dated March 30, 2015
4. Request for Proposals - Proof of Publication – Record Gazette
5. Consultant Evaluations Prepared by Interview Committee
6. Proposals Submitted by:
 - a. Bureau Veritas North America, Inc.
 - b. Charles Abbott Associates, Inc.
 - c. CSG Consultants, Inc.
 - d. HR Green
 - e. Interwest Consulting Group
 - f. JAS Pacific
 - g. Willdan

Attachment 1

City Council Resolution No. 2015-60

RESOLUTION NO. 2015-60

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE INTERIM CITY MANAGER TO ENTER INTO THE CONTRACT SERVICES AGREEMENT WITH CHARLES ABBOTT ASSOCIATES, INC. FOR BUILDING & SAFETY SERVICES.

WHEREAS, on July 13, 2011, the City Council approved a Contract Services Agreement with Willdan to provide Building & Safety Services for a one (1) year period. Subsequently, on June 12, 2012, the City Council adopted Resolution No. 2012-44 amending the Contract Services Agreement to continue the services of Willdan for an additional three (3) year period until June 30, 2015. As a result, Willdan has provided Building & Safety Services for a four (4) year period. Pursuant to Section 3.24.070(A)(7) (Formal Bid Procedures) of the Banning Municipal Code, *"no professional service contract shall extend for a period of more than five years, including any authorized extensions."* Therefore, the City may desire to consider a new Contract Services Agreement so that the City may maintain its Building & Safety functions. By soliciting proposals at this time, the City can ensure the most efficient and cost effective level of service; and,

WHEREAS, staff prepared and then on March 30, 2015 released a Request for Proposals seeking a professional consulting firm to provide Building & Safety Services to the City in the following areas: Building Official Administrative Services; Public Counter Assistance; Building Permit Plan Checking; Building Inspection Services; and, Building Abatement; and,

WHEREAS, on April 3, 2015, the Request for Proposals was posted on the City's website and published in The Record Gazette; and

WHEREAS, on April 30, 2015, the Community Development Department received seven (7) responses to the Request for Proposals from the following consulting firms:

Consultant	Location
Bureau Veritas North America, Inc.	Costa Mesa, CA
Charles Abbott Associates, Inc.	Mission Viejo, CA
CSG Consultants, Inc.	Santa Ana, CA
HR Green	Orange, CA
Interwest Consulting Group	Palm Springs, CA
JAS Pacific	Upland, CA
Willdan	San Bernardino, CA

WHEREAS, on May 13, 2015, the Community Development Department, represented by an independent committee of three (3) persons, conducted interviews with five (5) of the seven (7) consulting firms. The consulting firms Bureau Veritas North America and JAS Pacific declined to participate in the interview process and, therefore, have been eliminated from consideration of the evaluation process. The rating categories/criteria included: 1) team qualifications; 2) capabilities of the consulting firm; 3) understanding and approach; and, 4) controls of oversight. The following table provides a summary of the interview ratings:

Firm Name	Rater #1	Rater #2	Rater #3	Total
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(2) Willdan	335	315	340	990
(3) CSG Consultants, Inc.	360	325	295	980
(4) Interwest Consulting Group	335	260	360	955
(5) HR Green	225	180	360	660

WHEREAS, as part of their respective proposals, the consulting firms were requested to provide a proposed fee for the provision of the requested Building & Safety Services. The following table provides a summary of the proposed rates:

Consultant	Hourly Rates	Percentage
Charles Abbott Associates, Inc. Building Official Building Permit Plan Checking Building Inspection Public Counter Assistance	N/A N/A N/A N/A	65% for First \$15,000 of Monthly Fees Collected by City. 55% for Amounts Over \$15,001 of Monthly Fees Collected by City.
CSG Consultants, Inc. Building Official Building Permit Plan Checking Building Inspection Public Counter Assistance	\$110 N/A \$75 \$55	75% of Monthly Fees Collected by City.
HR Green Building Official Building Permit Plan Checking Building Inspection Public Counter Assistance	\$135 \$95-\$150 \$90-\$110 \$75	Unresponsive Fee Proposal, Requires Costs.
Interwest Consulting Group Building Official Building Permit Plan Checking Building Inspection Public Counter Assistance	N/A N/A N/A \$55	75% of Monthly Fees Collected by City.
Willdan Building Official Building Permit Plan Checking Building Inspection Public Counter Assistance	N/A N/A N/A \$59.00	75% of Monthly Fees Collected by City.

WHEREAS, upon a thorough evaluation of the proposals in terms of experience and expertise in correlation with the respective fees, staff concluded that Charles Abbott Associates has submitted the highest qualified team with a competitive fee for the provision of the requested Building & Safety Services. On June 15, 2015, the City's Budget and Finance Committee reviewed and considered staff's recommendation. The following table provides a summary of the cumulative scoring:

Firm Name	Rating Ranking	Fee Ranking	Total Score
Charles Abbott Associates, Inc.	1	1	2
Willdan	2	2	4
Interwest Consulting Group	4	3	7
CSG Consultants, Inc.	3	4	7
HR Green	5	5	10

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

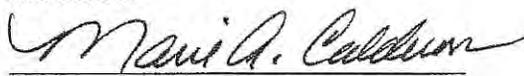
SECTION 1: Authorize the Interim City Manager to execute the Contract Services Agreement with Charles Abbott Associates, Inc. (attached Exhibit "A") to provide Building & Safety Services in the amount not to exceed a fee of 65% of the fees paid for the first \$15,000, 55% of the fees paid in the amounts from \$15,001 to \$30,000, and 50% of the fees paid in the amounts over \$30,001. This authorization will be rescinded if the Contract Services Agreement is not executed by both parties within sixty (60) days of the date of this Resolution.

SECTION 2: Authorize the Interim City Manager to execute the Contract Services Agreement with Charles Abbott Associates, Inc. in the form that is approved by the City Attorney.

PASSED, ADOPTED AND APPROVED this 23rd day of June, 2015.


 Deborah Franklin, Mayor
 City of Banning, California

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. 2015-60 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June, 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



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Art Vela, Public Works Director
Kevin Sin, Senior Civil Engineer

MEETING DATE: April 10, 2018

SUBJECT: Adopt Resolution 2018-35, Approving the Measure “A” Five Year Capital Improvement Plan Project List and Authorizing the City Manager to Execute the Maintenance of Effort Certification Statement

RECOMMENDATION:

That City Council adopt Resolution 2018-35, approving the Measure “A” Five Year Capital Improvement Plan Project List and authorizing the Interim City Manager to execute the Maintenance of Effort Certification Statement (“MOE Certification”).

JUSTIFICATION:

The City of Banning (“City”) is required to submit a Five Year Capital Improvement Plan (CIP) along with an executed MOE Certification annually to the Riverside County Transportation Commission (RCTC) in order to receive Measure “A” funds.

BACKGROUND:

Voters in Riverside County approved Measure “A” in 1988, which authorized the RCTC to impose an additional one-half percent (0.5%) sales tax for the next 20 years to be used for improvements of state highways, public transit systems, and local streets. In 2002, voters in Riverside County approved a 30-year extension of the one-half percent sales tax for transportation improvements.

Each City in Riverside County is required by the RCTC to submit a Five Year CIP, as approved by its governing board, to indicate how Measure “A” funding is to be utilized

over the next five years. The list of street locations under the Five Year CIP is attached hereto.

In 2012, the City completed a data collection and mapping project of the City's street network and in the process collected pavement surface distress data such as cracking, roughness, rutting, raveling/weathering, bleeding/flushing and deflection. The information is utilized to prioritize pavement rehabilitation projects.

As part of the yearly Measure "A" CIP list submittal, the City is required to submit a Project Status Report for projects previously approved by City Council in previous fiscal years that have not been completed. Attached hereto is the Project Status Report for FY 2016/2017 – 2017/2018.

The Measure "A" Ordinance also requires annual certification that discretionary General Fund expenditures for transportation-related construction and maintenance activities for Fiscal Year 2018/2019 will meet or exceed the Maintenance of Effort (MOE) Certification base year amount and commitment to expending Measure "A" funds to projects identified in the City's Five Year CIP. The MOE base year amount has been set to \$164,325. The MOE, attached hereto, must be signed by the City Manager and submitted to RCTC along with the Five-Year CIP.

FISCAL IMPACT:

RCTC has estimated that the City of Banning will receive Measure "A" Funds totaling \$3,069,000 as follows for the next five years:

<u>Year</u>	<u>Estimated Amount</u>
2018/2019	\$586,000
2019/2020	\$598,000
2020/2021	\$613,000
2021/2022	\$628,000
2022/2023	\$644,000

ALTERNATIVE:

The City Council may choose not to adopt Resolution No. 2018-35, which would result in the City losing its Measure "A" entitlements.

ATTACHMENTS:

1. Resolution No. 2018-35
2. 5-Year Measure "A" CIP
3. Project Status Report
4. Maintenance of Effort Certification Statement

Approved by:



Rochelle Clayton,
Interim City Manager

ATTACHMENT 1

Resolution No. 2018-35

RESOLUTION 2018-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE MEASURE "A" FIVE YEAR CAPITAL IMPROVEMENT PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE MAINTENANCE OF EFFORT CERTIFICATION STATEMENT

WHEREAS, in 1988, Riverside County voters approved a 0.5% sales tax ("Measure 'A'") over a 20-year span to be used toward improvements of state highways, local transit systems, and public streets; and

WHEREAS, in 2002, Riverside County voters approved a 30-year extension of the Measure "A" 0.5% sales tax; and

WHEREAS, each City in Riverside County is required by the Riverside County Transportation Commission (RCTC) to submit a Five Year Capital Improvement Plan, attached hereto, as approved by its governing board, to indicate how Measure "A" funding is to be utilized over the next five years; and

WHEREAS, the RCTC has estimated that the City of Banning will receive a total of \$3,069,000 in Measure "A" funds over the next five years; and

WHEREAS, the program is intended to support local transit systems, street pavement rehabilitation and public street improvements; and

WHEREAS, the Measure "A" Ordinance requires annual certification that discretionary General Fund expenditures for transportation-related construction and maintenance activities for Fiscal Year 2018/2019 will meet or exceed the Maintenance of Effort Certification (MOE) base year amount and commitment to spending Measure "A" funds to projects identified in the City's Five Year CIP; and

WHEREAS, the priority list of street locations can be changed by the City Council by submitting a written request to RCTC.

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

SECTION 1. City Council adopts Resolution 2018-35, approving the Measure "A" Five Year Capital Improvement Plan.

SECTION 2. The City Manager is authorized to execute the Maintenance of Effort Certification Statement.

PASSED, APPROVED and ADOPTED this 10th day of April, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk

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

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-35 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 10th of April, 2018.

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonja De La Fuente, Deputy City Clerk
City of Banning
Banning, California

ATTACHMENT 2

5-Year Measure "A" CIP



**MEASURE A
LOCAL STREETS
AND ROADS PROGRAM**

FY 2018/19

Agency: BANNING
 Prepared by: Kevin Sin
 Phone #: (951) 922-3140
 Date: 3/29/2018

FY 2016/17 Audited Measure A Balance:	\$ 1,768,949
FY 2017/18 (Revised) Measure A Revenue:	564,000
FY 2017/18 Project Status Report expenses:	<u>100,000</u>
Estimated Prior Year Measure A Balance:	2,232,949
Estimated FY 2018/19 Measure A Allocation:	<u>586,000</u>
Estimated Measure A Available for FY 2018/19 Projects:	\$ 2,818,949

Item No.	Project Name / Limits	Project Type	Total Project Cost	Measure A Funds
<u>2018/19</u>				
2019-01	Cottonwood Rd: 8th St to 12th St	AC Overlay	\$ 100,000	\$ 100,000
2019-02	George St: 8th St to 12th St.	AC Overlay	100,000	100,000
2019-03	10th St: Williams St to George St	AC Overlay	115,000	115,000
2019-04	12th St: Williams St to George St	AC Overlay	122,000	122,000
2019-05	14th St: Williams St to George St	AC Overlay	120,000	120,000
2019-06	Sun Lakes Boulevard Extension:	Documents and PS&E	1,175,000	1,175,000
2019-07	Ramsey & Sunset Imp. (Design)	PS&E	25,000	25,000
2019-08				
		TOTAL	\$ 1,757,000	\$ 1,757,000



**MEASURE A
LOCAL STREETS
AND ROADS PROGRAM**

FY 2019/20

Agency: BANNING
 Prepared by: Kevin Sin
 Phone #: (951) 922-3140
 Date: 3/29/2018

Estimated Prior Year Measure A Balance: \$ 1,061,949
 Estimated FY 2019/20 Measure A Allocation: 598,000
 Estimated Measure A Available for FY 2019/20 Projects: \$ 1,659,949

Item No.	Project Name / Limits	Project Type	Total Project Cost	Measure A Funds
<u>2019/20</u>				
2020-01	Indian School Lane: 8th St to San Gorgonio Ave	AC Overlay	\$ 200,000	\$ 180,000
2020-02	Lincoln Street: San Gorgonio Ave to Hargrave St	AC Overlay	300,000	260,000
2020-03	City-wide Slurry Seal	Slurry Seal	91,000	80,000
2020-04	Ramsey & Sunset Imp. (Constr.)	Rehabilitation	100,000	80,000
2020-05				
2020-06				
2020-07				
2020-08				
		TOTAL	\$ 691,000	\$ 600,000



**MEASURE A
LOCAL STREETS
AND ROADS PROGRAM**

FY 2020/21

Agency: BANNING
 Prepared by: Kevin Sin
 Phone #: (951) 922-3140
 Date: 3/29/2018

Estimated Prior Year Measure A Balance: \$ 1,059,949
 Estimated FY 2020/21 Measure A Allocation: 613,000
 Estimated Measure A Available for FY 2020/21 Projects: \$ 1,672,949

Item No.	Project Name / Limits	Project Type	Total Project Cost	Measure A Funds
<u>2020/21</u>				
2021-01	Monroe St: 22nd St to Jefferson St	AC Overlay/Rehab	\$ 100,000	\$ 100,000
2021-02	Jefferson St: Monroe St to 22nd St	AC Overlay/Rehab	90,000	90,000
2021-03	Lincoln St: Sunset Ave to 22nd St	AC Overlay	180,000	180,000
2021-04	George St: Hargrave to Hathaway	AC Overlay	140,000	140,000
2021-05	City-wide Slurry Seal	Slurry Seal	120,000	120,000
2021-06				
2021-07				
2021-08				
		TOTAL	\$ 630,000	\$ 630,000



**MEASURE A
LOCAL STREETS
AND ROADS PROGRAM**

FY 2021/22

Agency: BANNING
 Prepared by: Kevin Sin
 Phone #: (951) 922-3140
 Date: 3/29/2018

Estimated Prior Year Measure A Balance: \$ 1,042,949
 Estimated FY 2021/22 Measure A Allocation: 628,000
 Estimated Measure A Available for FY 2021/22 Projects: \$ 1,670,949

Item No.	Project Name / Limits	Project Type	Total Project Cost	Measure A Funds
<u>2021/22</u>				
2022-01	Ramsey St: 4th St to 12th St	AC Overlay/Rehab	\$ 300,000	\$ 300,000
2022-02	First St: Livingston St to Williams St	AC Overlay	85,000	85,000
2022-03	Second St: Hays St to Williams St	AC Overlay	13,000	13,000
2022-04	Third St: Hays St to Williams St	AC Overlay	30,000	30,000
2022-05	Fourth St: Livingston St to George	AC Overlay	85,000	85,000
2022-06	Second St: Nicolet St to George Omar Street & Ramsey St Int	AC Overlay	35,000	35,000
2022-07	Improvement	AC Overlay/Rehab	50,000	50,000
2022-08				
		TOTAL	\$ 598,000	\$ 598,000



**MEASURE A
LOCAL STREETS
AND ROADS PROGRAM**

FY 2022/23

Agency: BANNING
 Prepared by: Kevin Sin
 Phone #: (951) 922-3140
 Date: 3/29/2018

Estimated Prior Year Measure A Balance: \$ 1,042,949
 Estimated FY 2022/23 Measure A Allocation: 644,000
 Estimated Measure A Available for FY 2022/23 Projects: \$ 1,686,949

Item No.	Project Name / Limits	Project Type	Total Project Cost	Measure A Funds
<u>2022/23</u>				
2023-01	Ramsey Street: 12th St to 16th St	AC Overlay/Rehab	\$ 200,000	\$ 200,000
2023-02	City-wide Slurry Seal	Slurry Seal	440,000	440,000
2023-03				
2023-04				
2023-05				
2023-06				
2023-07				
2023-08				
		TOTAL	\$ 640,000	\$ 640,000

ATTACHMENT 3

Project Status Report



**MEASURE A
LOCAL STREETS
AND ROADS PROGRAM**

PROJECT STATUS REPORT FY 2017/18

Agency: BANNING
 Prepared by: Kevin Sin
 Phone #: (951) 922-3140
 Date: 3/29/2018

Item No.	Project Name / Limits	Project Type	Total Cost	Anticipated Measure A Funds Expended (Est thru 6/30/2018)	Estimated/ Actual Completion	Status
1	City-Wide Various Streets Improvements (Theodore St.: Alessandro Rd to Almond Way, 8th Street: Lincoln St to Westward Ave, Charles Street: Hargrave Ave to 1037 E. Charles St., and Wesley Street: Hargrave Ave to 1041 E. Wesley St.)	AC Overlay Document and Plans, Specs and Estimates Only	\$ 546,000	\$ 100,000	12/30/2018	Bidding/Awarding Project will be push out to FY 18/19
2	Sun Lakes Boulevard Extension: Highland Home Road to Sunset Avenue					
3	SB 821 Match - Christie Street: Almond Way to Blanchard St.; Christie Street: Cherry St. to Allen St.; Sun Lakes Blvd: 480' west of Lakes Retirement Community	Street and Sidewalk, Curb and Gutter Construction	188,278			Project is removed. \$122,967 programmed to project #1 above.
TOTAL			\$ 734,278	\$ 100,000		

ATTACHMENT 4

Maintenance of Effort Certification Statement

**FY 2018/2019 MEASURE A PROGRAM
MAINTENANCE OF EFFORT
CERTIFICATION STATEMENT**

The undersigned agrees and certifies for the CITY OF BANNING (the "Agency") that sales tax transportation funds received pursuant to Ordinance No. 02-001 of the Riverside County Transportation Commission (Measure "A") shall be used in compliance with the Commission's Maintenance of Effort Guidelines and a base year amount of \$164,325.00, approved by the Commission at its July 11, 2012 meeting, and that the Agency shall not use such funds to replace discretionary Local Funds previously expended by the Agency for local transportation purposes. The Agency hereby acknowledges that the failure of the Agency to continue such local expenditure shall result in a reduction or loss of Measure "A" funds. Additionally, the Agency commits to expending Measure A Local Streets and Roads funds for projects listed in the Five Year Capital Improvement Plan as approved by Riverside County Transportation Commission.

Dated: _____, 2018

Rochelle Clayton, Interim City Manager

Attest:

Secretary

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager
Robert J. Meteau Jr., Deputy Human Resources Director

PREPARED BY: Rochelle Clayton, Interim City Manager

MEETING DATE: April 10, 2018

SUBJECT: Resolution 2018-41 Providing the City Council's Concurrence of the Interim City Manager's Appointment of Robert Fisher to the Position of Interim Police Chief and Approving the Compensation and Benefits in an Employment Agreement with Robert Fisher for Interim Police Chief Services

RECOMMENDED ACTION:

Adopt Resolution 2018-41 Providing the City Council's Concurrence of the Interim City Manager's Appointment of Robert Fisher to the Position of Interim Police Chief Effective April 10, 2018 and Approving the Compensation and Benefits in an Interim Police Chief Agreement in Connection Therewith.

BACKGROUND:

On March 13, 2018, the City received a letter of resignation from Alejandro Diaz dated March 12, 2018 resigning his position as Interim City Manager and as Police Chief. Mr. Diaz stated that his last day of employment would be April 6, 2018.

On March 13, 2018, the City Council accepted Mr. Diaz's resignation, and pursuant to his Interim City Manager Agreement, acted to replace Mr. Diaz in the Interim City Manager position with Rochelle Clayton effective that same day (March 13, 2018). Mr. Diaz's resignation from the position of Police Chief would become effective on April 6, 2018, the date stated in Mr. Diaz's resignation letter.

Based on Mr. Diaz's resignation as Police Chief, Interim City Manager Rochelle Clayton has appointed Robert Fisher as Interim Police Chief. Pursuant to Banning Municipal Code Section 2.08.080 (C), the City Manager has the power to appoint officers of the

City except the city clerk, city treasurer and city attorney, provided that any appointment of a department head, including the Police Chief, is subject to the concurrence by formal vote of the City Council. In addition, the City Manager is empowered to enter into employment agreements with department heads provided that the maximum compensation and benefits are subject to the approval of the City Council prior to taking effect.

An employment agreement to document Mr. Fisher's terms and conditions of his employment as Interim Police Chief has been prepared and is attached to this report. The proposed agreement between the City and Robert Fisher for Interim Police Chief services is patterned after similar agreements between the City and prior Interim Police Chiefs and the Interim City Manager Agreement for Rochelle Clayton.

The material terms of the Interim Police Chief Agreement are as follows:

- Employee will receive a bi-weekly salary of \$5,038.55 during his term as Interim Police Chief. This represents an increase of \$1,018.55 over his current bi-weekly salary. At the end or termination of the Interim City Police Chief Agreement, compensation reverts to the amount Employee is entitled to at the time the agreement became effective.
- Employee will receive no change to other benefits.
- The City may terminate Employee's Interim Police Chief Agreement at any time, with one day's notice, with or without cause, and Employee will not be entitled to any severance benefit for that termination. If the Interim Police Chief is terminated, it will not affect the terms and conditions of Mr. Fisher's existing employment agreement as Police Sergeant under the Banning Police Officers' Association Memorandum of Understanding.

GOVERNMENT CODE SECTION 54953(c)(3) ANNOUNCEMENT

Consistent with Section 54953(c)(3) of the Government Code and Section 2.5 of the City Council Rules of Procedure, the Mayor, Mayor Pro Tempore, or other presiding officer shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in Section 3511.1(d) of the Government Code, during the open regular meeting in which the final action is to be taken and prior to the motion to approve. The Interim Police Chief is a local agency executive as defined in Section 3511.1(d) of the Government Code, and the oral report is required prior to approval of the attached Agreement as addressed in the Staff Recommendation section of this report.

- Employee will receive a bi-weekly salary of \$5,038.55 during his term as Interim Police Chief. This includes a supplement of \$1,018.55 during his term as Interim Police Chief.

- Employee will receive no change to other benefits.
- The City may terminate Employee's Interim Police Chief Agreement at any time, with one day's notice, with or without cause, and Employee will not be entitled to any severance benefit for that termination.
- At the end or termination of the Interim Police Chief appointment, Employee will return to his position as Police Sergeant, subject to the terms of his employment agreement for that position under the Banning Police Officers' Association Memorandum of Understanding.

FISCAL IMPACT:

The City will incur a reduction in annual salary expense of approximately \$21,370.75 with the change in the Interim Police Chief salary from Mr. Diaz to Mr. Fisher.

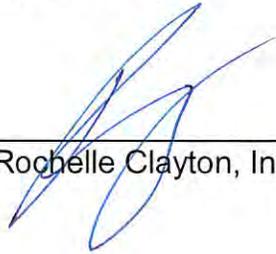
STAFF RECOMMENDATION

1. Prior to a motion to adopt the attached Resolution approving the Interim Police Chief Agreement between the City of Banning and Robert Fisher, the Mayor shall make an oral summary report for compliance with Section 54953(c)(3) of the Government Code as follows: "Staff is recommending the City Council approve an Interim Police Chief Employment Agreement between the City and Robert Fisher for the position of Interim Police Chief. In addition to the benefits described in the City's adopted Management Benefits Resolution, following is a summary of the Salary, Benefits, and Severance provisions of the Interim Police Chief Agreement that are unique to this Agreement:
 - Employee will receive a bi-weekly salary of \$5,038.55 during his term as Interim Police Chief. This includes a \$1,018.55 increase to his current salary during his term as Interim Police Chief.
 - Employee will receive no change to other benefits.
 - The City may terminate Employee's Interim Police Chief Agreement at any time, with one day's advance notice, with or without cause, and Employee will not be entitled to any severance benefit for that termination.
 - At the end or termination of the Interim Police Chief appointment, Employee will return to his position as Sergeant, subject to the terms of his employment memorandum of understanding for that position.
2. Adopt Resolution 2018-41 confirming the appointment of Robert Fisher to the position of Interim Police Chief Effective April 10, 2018 and approving an Interim Police Chief Agreement in connection therewith.

ATTACHMENTS:

1. Resolution 2018-41 - Providing the City Council's Concurrence of the Interim City Manager's Appointment of Robert Fisher to the position of Interim Police Chief Effective April 10, 2018 and Approving the Compensation and Benefits in an Interim Police Chief Agreement in Connection Therewith
2. Interim Police Chief Agreement

Approved by:



Rochelle Clayton, Interim City Manager

ATTACHMENT 1

Resolution 2018-41

A Resolution of the City Council of the City of Banning Providing for the City Council's Concurrence of the Interim City Manager's Appointment of Robert Fisher to the Position of Interim Police Chief Effective April 10, 2018 and Approving the Compensation and Benefits in an Interim Police Chief Agreement in Connection Therewith

RESOLUTION 2018-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, PROVIDING FOR THE CITY COUNCIL'S CONCURRENCE OF THE INTERIM CITY MANAGER'S APPOINTMENT OF ROBERT FISHER TO THE POSITION OF INTERIM POLICE CHIEF EFFECTIVE APRIL 10, 2018 AND APPROVING THE COMPENSATION AND BENEFITS IN AN INTERIM POLICE CHIEF AGREEMENT IN CONNECTION THEREWITH

WHEREAS, The City appointed Alejandro Diaz as Banning's Police Chief, effective September 29, 2014, and thereafter Mr. Diaz continued to serve as Police Chief; and

WHEREAS, On March 12, 2018, Alejandro Diaz submitted a letter of resignation to the City that was received on March 13, 2018 with the effective date of his resignation as Police Chief being April 6, 2018; and

WHEREAS, On March 13, 2018, the City Council accepted Mr. Diaz's resignation from the position of Police Chief effective April 6, 2018; and

WHEREAS, Section 2.08.080 (C) of the Banning Municipal Code provides that the City Manager's appointment of department heads is subject to the concurrence of the City Council, and Section 2.08.090 (C) of the Banning Municipal Code provides that the maximum compensation and benefits in an employment agreement for a department head is subject to the approval of the City Council.

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

SECTION 1. The City Council hereby concurs in the Interim City Manager's appointment of Robert Fisher to the position of Interim Police Chief effective April 10, 2018.

SECTION 2. The City Council hereby approves compensation and benefits contained in the Interim Police Chief Agreement between the City of Banning and Robert Fisher, attached hereto as Exhibit A, effective April 10, 2018.

SECTION 3. The Deputy City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2018.

ATTEST:

George Moyer, Mayor
City of Banning

Sonja De La Fuente, Deputy City Clerk

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

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-41, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

ATTACHMENT 2

Interim Police Chief Agreement between the City of
Banning and Robert Fisher

INTERIM POLICE CHIEF AGREEMENT

BETWEEN

CITY OF BANNING AND ROBERT FISHER

This INTERIM POLICE CHIEF AGREEMENT (the "Agreement") is effective the 10th day of April, 2018 by and between the CITY OF BANNING, a general law city and municipal corporation (hereinafter the "City") and ROBERT FISHER, an individual (hereinafter the "Interim Police Chief" or "Employee") (collectively, the "Parties").

RECITALS

WHEREAS, it is the desire of the City Manager of the City of Banning (hereinafter the "City Manager") to appoint an individual to serve in the position of Interim Police Chief for the City of Banning, California, to temporarily fill the position of the City's Police Chief, which position is prescribed by state law and the City's Municipal Code, while the City conducts its recruitment for a permanent Police Chief; and

WHEREAS, it is the desire of the City Manager to (1) secure and retain the services of Interim Police Chief, (2) to assure that Interim Police Chief will participate in the recruitment of a permanent Police Chief, (3) to have Interim Police Chief perform all of the regular functions of the Police Chief pursuant to the codes and regulations of City, (4) to provide a mechanism to conclude Interim Police Chief's interim assignment; and

WHEREAS, Interim Police Chief desires to accept appointment as such from the City.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, including the Recitals which are made a part hereof, City and Interim Police Chief hereby agree as follows:

AGREEMENT

1.0 APPOINTMENT & DUTIES

1.1 Duties. Concurrent with approval and execution of the Agreement, City Manager appoints ROBERT FISHER as Interim Police Chief to perform the functions and duties specified in applicable sections of the City's Municipal Code and the Government Code of the State of California, to perform such other legally permissible and proper duties and functions as the City Manager shall, from time-to-time, direct or assign.

1.2 Work Schedule. Interim Police Chief shall devote the time necessary to adequately perform his duties as Interim Police Chief. The Parties expect that an average of 40 hours per week will be required, as well as additional time outside of normal business hours as necessary. Interim Police Chief shall attend meetings

outside of normal business hours, as normally attended by the Police Chief, including, but not limited to, City Council regular and special meetings and workshops.

1.3 Responsibility to Administer Organization. The Interim Police Chief shall at all times exercise due diligence to assure that the persons and Police department organization which he oversees operate in full compliance with state and federal law, with City ordinances, rules and regulations, and with Council policies, and good municipal practice, and shall advise the City Manager of any obstacles thereto, and keep the City Manager appropriately informed concerning municipal operations.

1.4 Work Program. The City Manager and Interim Police Chief shall coordinate to develop a specific work program for the term of this Agreement and any extension thereof. The work program shall indicate the most important objectives to be achieved by City Manager and Interim Police Chief during the term of this Agreement, and may provide a timeline with the anticipated schedule for achieving such objectives.

2.0 TERM

2.1 Term. This Agreement shall be for the duration of the recruitment of and transition to the permanent Police Chief, unless terminated earlier by the City or Interim Police Chief. Unless sooner terminated as provided in this Agreement, the Interim Police Chief appointment and this Agreement will end on the day that a successor Police Chief assumes duty.

2.2 Employment Status. The Parties recognize that Interim Police Chief is currently employed by the City as Police Sergeant. Upon termination of this Agreement, either upon the end of the term or by termination, Interim Police Chief is entitled to return to the position of Sergeant, or to the position of Lieutenant if he has met the minimum qualifications, and resume the full duties assigned to that position, unless dismissed from employment according to the terms and procedures applicable to Employee's employment as a Police Sergeant.

2.3 Termination by City or Interim Police Chief. Notwithstanding Section 2.1, the City Manager may terminate this Agreement at any time with or without cause, upon delivery of at least one (1) day's advance written notice to Interim Police Chief prior to the effective date of termination. Interim Police Chief may terminate this Agreement at any time with or without cause, provided he provides City Manager with at least one (1) day's advance written notice prior to the effective date of termination. Interim Police Chief expressly agrees that he shall not be entitled to any severance pay as the result of the termination of this Agreement for any reason whatsoever, nor shall his reinstatement as Police Sergeant, as described in Section 2.2, be considered a demotion or any other disciplinary or punitive action.

3.0 COMPENSATION

3.1 Compensation. Acting pay compensation is to be the greater of either a 5% increase to base pay or the lowest step of the Police Chief salary range.

For the services rendered pursuant to this Agreement, Interim Police Chief shall be compensated a biweekly salary of \$5,038.55, subject to all applicable withholdings. Such amount shall be Interim Police Chief's sole compensation for his services under this Agreement. Interim Police Chief is not entitled to overtime pay for attendance at meetings outside of normal business hours, including, but not limited to, City Council regular or special meetings and workshops.

3.2 FLSA Exempt Status. Interim Police Chief agrees that his position is that of an exempt employee for the purposes of the Fair Labor Standards Act. Interim Police Chief's compensation is not based on hours worked and Interim Police Chief shall not be entitled to any compensation for overtime.

3.3 Benefits. Interim Police Chief will continue to receive all benefits to which he is currently entitled under his appointment as Police Lieutenant.

4.0 EQUIPMENT AND VEHICLE ASSIGNMENT

Interim Police Chief shall continue to use the equipment, including cell phone and firearm, and vehicle assigned to him as Police Sergeant.

5.0 BONDING

The City shall bear the full cost of any fidelity or other bonds required of the Interim Police Chief in the performance of his services under this Agreement or as required under any law, ordinance or policy.

6.0 INDEMNIFICATION

City shall defend, hold harmless and indemnify Interim Police Chief against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of Interim Police Chief's services under this Agreement. This section shall not apply to any intentional tort or crime committed by Interim Police Chief, to any action outside the course and scope of the services provided by Interim Police Chief under this Agreement, or any intentional or malicious conduct or gross negligence of Interim Police Chief.

7.0 GENERAL PROVISIONS

7.1 Other Terms and Conditions of Employment. The City Manager, in consultation with the Interim Police Chief, shall fix any such other terms and conditions of employment as it may determine from time to time, relating to the performance of Interim Police Chief, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Banning Municipal Code, or any other law.

7.2 Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the appointment of Employee to

serve as Interim Police Chief by City and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement or promises not contained in this Agreement shall be valid or binding upon either party.

7.3 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given when served upon the other party as sent by United States Postal Service, postage prepaid and addressed as follows:

To City:

City Manager
City of Banning
99 E. Ramsey Street
Banning, California 92220

To Interim Police Chief:

ROBERT FISHER
34459 Fawn Ridge Place
Yucaipa, CA 92399

Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

7.4 Assignment. Interim Police Chief shall not assign any rights or obligations under this Agreement. The City may, upon prior written notice to Interim Police Chief, assign its rights and obligations hereunder.

7.5 Effect of Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

7.6 Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

7.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution.

7.8 Independent Legal Advice. City and Interim Police Chief represent and warrant to each other that each has been afforded the opportunity to receive legal advice from independent and separate legal counsel with respect to the legal effect of this Agreement and, City and Interim Police Chief further represent and warrant that each has carefully reviewed this entire Agreement and that each and every term thereof is understood and that the terms of this Agreement are contractual and not

a mere recital. This Agreement shall not be construed against the party or its representatives who drafted it or who drafted any portion thereof.

7.9 Conflicts Prohibited. Interim Police Chief represents and warrants to the City that he presently has no interest and will not engage in any business or transaction or maintain or acquire a financial or other interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Interim Police Chief's duties under this Agreement. Interim Police Chief shall rigorously comply with the all provisions of the Political Reform Act (Gov't Code § 87100 et seq.) and all other conflict and ethical laws.

IN WITNESS WHEREOF, the City of Banning has caused this Agreement to be signed and executed on its behalf by its City Manager, and duly attested by its officers thereunto duly authorized, and the Interim Police Chief has signed and executed this Agreement.

CITY OF BANNING

Rochelle Clayton, Interim City Manager

Dated: _____

ATTEST:

Sonja De La Fuente, Deputy City Clerk

APPROVED AS TO FORM

Kevin G. Ennis, City Attorney

INTERIM POLICE CHIEF

ROBERT FISHER

Dated: _____

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**CITY OF BANNING
RESOLUTION**

TO: CITY COUNCIL

FROM: Rochelle Clayton, Interim City Manager

PREPARED BY: Phil Holder, Captain

MEETING DATE: April 10, 2018

SUBJECT: Adopt Resolution 2018-32: Acceptance of the 2017 State Homeland Security Program (SHSP) Grant in the amount of \$69,208 and approval of equipment purchases and installation of communication related equipment from Motorola Solutions, Inc., Bear Communications, Inc., and Dell Computer Corp. in order to complete the communication upgrade to the police department's Mobile Command Center.

RECOMMENDATION:

The City Council adopt Resolution No. 2018-32, a Resolution of the City of Banning, California, authorizing the acceptance of the 2017 SHSP Grant through the Riverside County Emergency Management Department in the amount of \$69,208 to complete the upgrade to the communication system in the department's mobile command center (MCC) in order for it to effectively operate on the Riverside County PSEC Radio System and the department's computer aided dispatch (CAD) system.

This request includes the purchase of communication equipment from Motorola Solutions, Inc. in an amount not to exceed \$38,137, installation costs from Bear Communications, Inc. in an amount not to exceed \$19,333, and additional equipment from Dell Computer Corp. in an amount not to exceed \$4,840.

JUSTIFICATION:

The communication system upgrade will enhance the mobile command center's interoperability capabilities by allowing it to operate on the Riverside County PSEC system, as well as improve its operational capabilities when connecting to the department's existing CAD system.

BACKGROUND:

On November 18, 2016, the Banning Police Department was awarded the FY16 SHSP Grant in the amount of \$33,500 for the purchase, installation, and programming of upgraded communication equipment in its mobile command center. The Banning City Council approved acceptance of the grant on December 12, 2016 through Resolution 2016-118. However, the amount of the grant did not provide the necessary funding to complete the full integration upgrade of the MCC's communication system. Subsequently, the police department applied for additional funding for the project through the FY17 SHSP Grant.

On November 30, 2017, the Banning Police Department was awarded the FY17 SHSP Grant in the amount of \$69,208 for the purchase, installation, and programming of the necessary communication equipment for completing the upgrade to the MCC's communication system.

On March 28, 2018, the Banning Police Department received quotes from Motorola Solutions, Inc. and Bear Communications, Inc. for equipment and installation for the upgrade in communication equipment. Motorola Solutions., Inc. is a sole source provider of the equipment and Bear Communications., Inc. is the assigned Motorola Solutions., Inc. dealership for the Banning Police Department.

Once the upgraded equipment is installed, City of Banning IT staff will evaluate the required upgrades for two additional computer workstations and a server in the MCC, which will then be purchased through Dell Computer Corp. and installed by the City's IT staff. The exact amount of the purchase is unknown but it is expected to be less than the previously noted amount of \$4,840, which includes a 10% contingency. The purchase from Dell Computer Corp. will be completed under the authorization of City of Banning Resolution 2017-41.

FISCAL IMPACT:

A budget adjustment in the amount of \$69,208 is necessary to increase estimated revenues and appropriate funds for the 2017 SHSP Grant to pay for the communication equipment, installation, and programming. Upon completion of the project, paid invoices will be submitted to the Riverside County Emergency Management Department which will reimburse the City for the full cost of the equipment, installation, and programming. This grant does not require matching funds.

OPTIONS:

1. Adopt Resolution 2018-32
2. Reject Resolution 2018-32 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 2018-32
- 2.FY17 SHSP Award Document
- 3.Resolution 2016-118
- 4.Resolution 2017-41
- 5.Motorola Solutions, Inc. Quote
- 6.Bear Communications Quote
- 7.Motorola Solutions, Inc. Authorization Letter

Approved by:



Rochelle Clayton
Interim City Manager

ATTACHMENT 1

Resolution 2018-32

RESOLUTION NO. 2018-32

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA AUTHORIZING THE ACCEPTANCE OF THE 2017 STATE HOMELAND SECURITY PROGRAM (SHSP) GRANT IN THE AMOUNT OF \$69,208 FOR THE PURCHASE, INSTALLATION, AND PROGRAMMING OF UPGRADED COMMUNICATION EQUIPMENT FOR THE POLICE DEPARTMENT'S MOBILE COMMAND CENTER. ADDITIONALLY, AUTHORIZING THE PURCHASE OF EQUIPMENT FROM MOTOROLA SOLUTIONS., INC. IN AN AMOUNT NOT TO EXCEED \$38,137, THE INSTALLATION OF EQUIPMENT BY BEAR COMMUNICATIONS, INC., IN AN AMOUNT NOT TO EXCEED \$19,333 AND THE PURCHASE OF EQUIPMENT FROM DELL COMPUTER CORP. IN AN AMOUNT NOT TO EXCEED \$4,840.

WHEREAS, the City Banning Police Department is responsible for the security and safety of the Citizens of the City; and,

WHEREAS, it is imperative the Banning Police Department maintain the optimal level of Interoperable communications with allied law enforcement agencies in the area; and,

WHEREAS, there is a need to complete the full upgrade to the police department's MCC communication system; and,

WHEREAS, the City's procedures require the City Council to adopt a resolution authorizing acceptance and expenditure of funds procured through grants.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning authorizes the Banning Police Department to accept the 2017 State Homeland Security Program Grant in the amount of \$69,208 for the purchase, installation, and programming of upgraded communications equipment for the Banning Police Department Mobile Command Center. Additionally, the City Council authorizes the police department to utilize Motorola Solutions, Inc., Bear Communications., Inc. and Dell Computer Corp. to provide and install the upgraded communication equipment in a total amount not to exceed the awarded grant of \$69,208. Furthermore, The City Council authorizes the appropriation of City Funds into the appropriate Banning Police Department Technology account in the amount of \$69,208. The Finance Department is authorized to make the necessary budget adjustments related to these funds. Additionally, the Interim City Manager or her designee is authorized to act as the SHSP Grant Authorized Agent on behalf of the City of Banning.

PASSED, APPROVED, AND ADOPTED this 10th day of April 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

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

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-32, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonja De La Fuente, Deputy City Clerk

ATTACHMENT 2

FY 17 SHSP Award Document



Bruce Barton
Emergency Management Department Director

November 30, 2017

Captain Phil Holder
Banning PD

RE: FY17 State Homeland Security Program (SHSP) Award– Mobile Radios- \$69,208

Grant #: 2017-0083 CFDA#: 97.067

The California Office of Emergency Services (CalOES) has approved Riverside County's FY17 State Homeland Security Program (SHSP) grant award and in turn EMD has approved your grant award in the above amounts.

Upon approval of pending paperwork this letter serves as authorization to begin spending and requesting reimbursement of your Anti-Terrorism Approval Authority (ATAA) approved projects. The overall performance period of this grant is Nov. 30, 2017– May 31, 2019 however you are required to request reimbursement at a minimum of every 6 months. Equipment purchases must be completed within the first 8 months of this grant and Training must be completed or scheduled within the first year of this grant. Under extenuating circumstances some exceptions may be approved. Riverside County EMD does require you to provide a signed FY17 Grant Assurance and completed and signed Workbook Face-Sheet as soon as possible. Modifications and Reimbursement Requests cannot be processed until we receive these documents. Please remember that changes to your grant will require the approval of the OA prior to incurring any costs. All modifications, EHP's, sole source procurement, EOC and construction requests require additional approvals from CalOES through the OA prior to incurring any costs. Your Agency's Financial Workbook outlining your approved spending is included on the CD provided to you.

By accepting this award it will be understood that you are agreeing to comply with all applicable federal, state and local requirements of the grant as put forth in the FY17 Grant Assurances, federal and state guidances, and all provisions of 2 CFR 200 including part F-"Audit Requirements". Performance Bonds are required for any equipment item over \$249,999 or any vehicle, aviation, or watercraft regardless of cost that is being paid for with any portion of grant funds. Federal funds cannot be awarded to any entity that has been debarred. You will be expected to provide quarterly reports by January 1, April 1, July 1 and October 1 of each year for all open grants. Any funds found owed as a result of a final review or audit must be refunded to the County within 15 days upon receipt of an invoice from Riverside County EMD.

As always, please feel free to contact us with any questions you may have. I look forward to working with you and appreciate your cooperation and support.

Regards,

Kim Dana

Kim Dana
Administrative Services Analyst II
Riverside County EMD
951-955-0419

ATTACHMENT 3

Resolution 2016-118

RESOLUTION 2016-118

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA AUTHORIZING THE ACCEPTANCE OF THE 2016 STATE HOMELAND SECURITY PROGRAM (SHSP) GRANT IN THE AMOUNT OF \$33,500 FOR THE PURCHASE, INSTALLATION, AND PROGRAMMING OF THREE (3) MOTOROLA APX7500 MULTI-BAND VEHICLE RADIOS FOR THE POLICE DEPARTMENT'S MOBILE COMMAND CENTER.

WHEREAS, the City of Banning Police Department is responsible for the security and safety of the Citizens of the City; and,

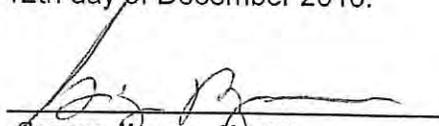
WHEREAS, it is imperative the Banning Police Department maintain the optimal level of Interoperable communications with allied law enforcement agencies in the area; and,

WHEREAS, there is a need to upgrade the radios in the Banning Police Department's Mobile Command Center to the Riverside County maintained PSEC radio system; and,

WHEREAS, the City's procedures require the City Council to adopt a resolution authorizing acceptance and expenditure of funds procured through grants.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning authorizes the Banning Police Department to accept the 2016 State Homeland Security Program Grant in the amount of \$33,500 to purchase three (3) Motorola APX7500 Multi-Band Vehicle Radios, with installation and programming, for the Banning Police Department Mobile Command Center. Furthermore, The City Council authorizes the appropriation of City Funds into the appropriate Banning Police Department Technology account in the amount of \$33,500. The Finance Department is authorized to make the necessary budget adjustments related to these funds. Additionally, the City Manager or his designee is authorized to act as the SHSP Grant Authorized Agent on behalf of the City of Banning.

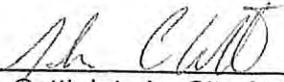
PASSED, APPROVED, AND ADOPTED this 12th day of December 2016.


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

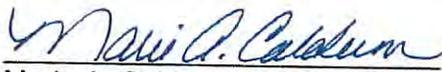
I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the forgoing Resolution 2016-118 was duly adopted by the City Council of the City of Banning at the regular meeting thereof held on the 12th day of December, 2016, by the following vote, to wit:

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

NOES: None

ABSTAIN: None

ABSENT: None



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

ATTACHMENT 4

Resolution 2017-41

RESOLUTION NO. 2017-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, PRE-APPROVING A VENDOR LIST FOR THE PURCHASE OF INFORMATION TECHNOLOGY SUPPLIES AND COMMODITIES FOR THE CITY

WHEREAS, the City desires to create a list of pre-approved vendors to provide Information Technology (IT) supplies and commodities for the remainder of FY 2017 and for FY 2018 concurrent approved budgets; and

WHEREAS, upon evaluation of the City's current contract tracking list and co-operative vendor list the following vendor list was established:

B&H Photo & Electronics Corp	ComDirect
Bear Communications	Dell Computer Corporation
Business Telecommunication Systems(BTS)	Office Depot
Cell Business Equipment (CBE)	PI Manufacturing Corp.
CDW-Government (CDW-G)	Transact Technologies, Inc.
Canon	Vision Security Systems
Card Integrators dba CI Solutions	Win-911

WHEREAS, the IT Division in the City Manager's office purchases hardware, software and miscellaneous equipment on a regular basis for all departments throughout the City; and

WHEREAS, budgets have been approved for all of the departments during the regular budget process, however specific commodity sources have not been approved for cumulative annual spending; and

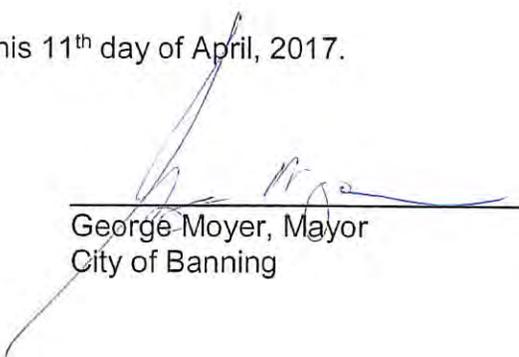
WHEREAS, the vendors listed have either been competitively bid through the City's bidding process or through the competitive bidding process of the US General Services Association (GSA) Schedule 70, National IPA/TCPN and US Communities; and

WHEREAS, procurement compliance will be authorized through the use of cooperative agreements, the GSA Advantage Schedule 70 or the competitive bid processes to be reviewed and approved by the Purchasing Manager upon initial set-up.

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

1. Resolution No. 2017-41 is approved, pre-approving a vendor list for the purchase of IT supplies; and
2. The City Council authorizes the Purchasing Manager for the City of Banning to execute purchase orders for IT supplies and commodities from the pre-approved vendor list in accordance with the City's purchasing policies.

PASSED, APPROVED AND ADOPTED this 11th day of April, 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 foregoing Resolution 2017-41, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 11th day of April, 2017, by the following vote, to wit:

AYES: Councilmembers Andrade, Franklin, Peterson, Welch, Mayor Moyer
NOES: None
ABSTAIN: None
ABSENT: None


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

ATTACHMENT 5

Motorola Solutions, Inc. Quote



Quote Number: QU0000436079
 Effective: 28 MAR 2018
 Effective To: 27 MAY 2018

Bill-To:

BANNING POLICE DEPT, CITY OF
 125 E RAMSEY ST
 BANNING, CA 92220
 United States

Ultimate Destination:

BANNING POLICE DEPT, CITY OF
 125 E RAMSEY ST
 BANNING, CA 92220
 United States

Attention:

Name: Liza Kester
Email: liza.kerter@ci.banning.ca.us
Phone: 951-849-1811

Sales Contact:

Name: Thomas Kelley
Email: thomas.kelley@bearcom.com
Phone: 909-390-0460

Contract Number: LA COUNTY (CA)
Freight terms: FOB Destination
Payment terms: Net 30 Due

Item	Quantity	Nomenclature	Description	List price	Your price	Extended Price
1	3	TT2833A	COMPUTER, Z440 WORKSTATION WINDOWS 7 (NON RETURNABLE)	\$2,950.00	\$2,507.50	\$7,522.50
2	3	L3484AC	MIP5000 VOIP DIGITAL GATEWAY	\$798.00	\$718.20	\$2,154.60
2a	3	TT05980AA	FOR SYSTEMS AT RELEASE 4.1 OR NEWER	-	-	-
3	3	RLN6099A	HDST MODULE BASE W/PTT, 25' CBL	\$242.00	\$193.60	\$580.80
4	3	L3487B	MIP5000 VOIP DISPATCH SW 8 CHANNEL	\$6,500.00	\$5,850.00	\$17,550.00
4a	3	TT05522AA	MIP5000 ENHANCED MODEL USB HEADSET JACKBOX	\$575.00	\$517.50	\$1,552.50
5	3	B1914A	MCC SERIES DESKTOP GOOSENECK MICROPHONE	\$250.00	\$212.50	\$637.50
6	3	BLN6732B	FOOT, SWITCH TRADITIONAL	\$141.90	\$113.52	\$340.56
7	3	CDN6673A	PC DESKTOP SPEAKERS	\$59.13	\$47.30	\$141.90
8	3	DDN1463A	APX 7500 MOBILE DIRECT CONNECT CABLE	\$230.00	\$207.00	\$621.00
9	1	DDN8671A	15 FT NULL MODEM CABLE DB9 F/F	\$15.13	\$12.10	\$12.10
10	2	DDN8900A	MIP5000 RACKMOUNT KIT	\$225.00	\$202.50	\$405.00

Estimated Tax Amount	\$2,521.48
Estimated Freight Amount	\$630.37
Total Quote in USD	\$34,670.31

THIS QUOTE IS BASED ON THE FOLLOWING:

- This quotation is provided to you for information purposes only and is not intended to be an offer or a binding proposal.
- If you wish to purchase the quoted products, Motorola Solutions, Inc. ("Motorola") will be pleased to provide you with our standard terms and conditions of sale (which will include the capitalized provisions below), or alternatively, receive your purchase order which will be acknowledged.
- Thank you for your consideration of Motorola products.
- Quotes are exclusive of all installation and programming charges (unless expressly stated) and all applicable taxes.
- Purchaser will be responsible for shipping costs, which will be added to the invoice.
- Prices quoted are valid for thirty(30) days from the date of this quote.
- Unless otherwise stated, payment will be due within thirty days after invoice. Invoicing will occur concurrently with shipping.

MOTOROLA DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO THE ORDERED PRODUCTS, EXPRESS OR IMPLIED INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

MOTOROLA'S TOTAL LIABILITY ARISING FROM THE ORDERED PRODUCTS WILL BE LIMITED TO THE PURCHASE PRICE OF THE PRODUCTS WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED. IN NO EVENT WILL MOTOROLA BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES.

ATTACHMENT 6

Bear Communications Quote



Recommendation

03/28/18 16:37:23 Page - 1
 Quote Date: 03/26/18 Branch 20392
 Quote Number: 317179

Customer/Prospect Number 1629609

BANNING PD
 125 E RAMSEY
 BANNING CA 92220

Customer Contact: LIZA KESTER Email: liza.kester@ci.banning.ca.us
 Phone Number: 951 849-1811 Delivery Instr:

Quantity	Part Number	Unit Price	Extended Price
63	PROGRAMMING PROGRAMMING FEE MIP5000	165.00	10,395.00
33	INSTALL INSTALLATION SERVICES Install equipment	160.00	5,280.00
17	INSTALL INSTALLATION SERVICES Travel Time	100.00	1,700.00
1	MISC HDW BEARCOM MISC HARDWARE	200.00	200.00

Quote valid until 05/06/18 Confidential and Proprietary
 X _____
 Customer Signature

Sub Total	17,575.00
Shipping and Handling	TBD
Tax	TBD
Total	17,575.00

Check with your Bearcom executive for current financing promotions through LCA

12 Months 1,537.81 24 Months 811.97 36 Months 559.76 48 Months 441.13 60 Months 370.13

Click on the Link to APPLY NOW: <http://mylease.leasecorp.com/bearcom>

Thomas Kelley
 Account Executive
Thomas.Kelley@Bearcom.com

ONTARIO Branch Office: 909-390-0460
 FAX: 909-937-7127

ATTACHMENT 7

Motorola Solutions, Inc. Authorization Letter

Motorola Solutions, Inc
10680 Treena Street, #200
San Diego, CA 92131
U.S.A.

June 19, 2017

Banning Police Department
Attn: Liza Kester
125 East Ramsey Street
Banning, CA 92220

Liza,

This letter is to advise you that Bear Communications is an Authorized Manufacturers Representative (MR) of Motorola Solutions, Inc and is assigned to represent Motorola Solutions products and services to the Banning Police Department. Thus, Motorola Solutions, Inc. authorizes Bear Communications to work as an agent of Motorola and to arrange the sales of products and services by Motorola Solutions, Inc. These products include the Motorola P25 Two-Way Radio subscriber and infrastructure portfolio.

If you should have any questions regarding this matter please feel free to contact me directly at 971-219-8970. Thank you for your continued interest in Motorola Solutions products and services.

Kind regards,



Jerry Burch
Southern California Sales Manager
Motorola Solutions Sales and Services Inc.