

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

November 13, 2018  
**5:00 p.m.**

Banning Civic Center  
Council Chamber  
99 E. Ramsey Street

*The following information comprises the agenda for the 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 – Elder Ralph Bobik, Church of Jesus Christ of Latter Day Saints
- Pledge of Allegiance
- Roll Call – Council Members Andrade, Franklin, Peterson, Welch, Mayor Moyer

**II. REPORT ON CLOSED SESSION**

**III. PUBLIC COMMENTS, CORRESPONDENCE, PRESENTATIONS, AND APPOINTMENTS**

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.

**PRESENTATIONS**

1. Recycling All Stars.....  
(Clara Vera- Waste Management)

## APPOINTMENTS

None

## **IV. 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.	Approval of Special Meeting – 10/23/2018 Planning Commission Interview Minutes .....	1
2.	Approval of Special Meeting – 10/23/2018 Workshop Minutes.....	11
3.	Approval of Special Meeting – 10/23/2018 Closed Session Minutes .....	69
4.	Approval of Regular Meeting – 10/23/2018 Minutes .....	73
5.	Contracts Signed Under City Manager Authority for October (2018).....	141
6.	California Highway Patrol's San Geronio Pass Regional Focused High-Collision Reduction Campaign.....	145
7.	Notice of Completion- Project 2016-04, Roosevelt Williams Park Improvements.....	149
8.	Police Stats ( September 2018).....	161
9.	Resolution 2018-142, Confirming the Denial of Tentative Parcel Map Extension 30906 .....	165
10.	2 <sup>nd</sup> Reading of Ordinance 1535, an Ordinance of the City of Banning Amending Sections of the Zoning Ordinance (title 17 of the Banning Municipal Code) Related to Tattoo and Body Piercing Establishments ....	173
11.	2 <sup>nd</sup> Reading of Ordinance 1527, an Ordinance of the City of Banning Adding Chapter 5.33 to the Banning Municipal Code Related to the Issuance of Cannabis Retailer Regulatory Permits, and Making Findings Under CEQA.....	181
12.	2 <sup>nd</sup> Reading of Ordinance 1531, an Ordinance of the City of Banning, Approving a Categorical Exemption from CEQA and Approving Zoning Ordinance Amendment 18-97503 to Amend title 17 "Zoning" of the Banning Municipal Code to Add a New Chapter 17.54. " Cannabis Retailer Conditional Use Permit, and Making the Allowance for and Regulation of, These Business Contingent Upon he Voter's Approval of a Tax Measure (Measure O) on the November 6, 2018 General Municipal Election ballot .....	201

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



## V. PUBLIC HEARINGS

1. Public Hearing to Consider Approval of a Fee Waiver in Accordance with Section 15.72.050 of the Banning Municipal Code, submitted by Ronnell Gallon and John Weeks, for Properties Identified as Assessor's Parcel Numbers 532-160-007, 532-160-008, and 532-160-009 ..... **225**

*(Staff Report – Maryann Marks, Interim Community Development Director)*

**Recommendation: Adopt Resolution 2018-140 approving fee waiver in accordance with Section 15.72-050 of the Banning Municipal Code, in an amount not to exceed \$17,840.**

**Alternately, if the findings presented are insufficient, the City Council could adopt Resolution 2018-141, denying fee waiver in accordance with Section 15.72-050 of the Banning Municipal Code.**

2. Resolution 2018-143, Public Hearing and Consideration of Adopting Application and Processing Fees for Cannabis Regulatory Permits and cannabis Conditional Use Permits ..... **245**

*(Staff Report – Maryann Marks, Interim Community Development Director)*

**Recommendation: 1) Open and conduct a public hearing regarding the proposed adoption of cannabis regulatory permit and conditional use permit fees; and 2) City Council adopt Resolution 2018-143, Adopting Application and Processing Fees for Cannabis Regulatory Permits and Cannabis Conditional Use Permits**

## VI. ANNOUNCEMENTS AND REPORTS

### CITY COUNCIL COMMITTEE REPORTS

### REPORT BY CITY ATTORNEY

### REPORT BY CITY MANAGER

### REPORT OF OFFICERS

1. Resolution 2018-146, ..... **279**  
*(Staff Report – Tom Miller, Electric Utility Director)*

**Recommendation: Adopt Resolution 2018-146, Approving A Contract Services Agreement with Vision Security Systems to Provide New Equipment, Installations, Repairs, and Maintenance of Existing Equipment.**

**BANNING UTILITY AUTHORITY (BUA) – Next Meeting, December 11, 2018,**  
**5:00 p.m.**

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

**VII. DISCUSSION ITEMS**

None

**VIII. ITEMS FOR FUTURE AGENDAS**

New items –

Pending Items – City Council

1. Mills Act Update
2. Fee Suspension Update
3. Website Redesign
4. Street Naming Policy to Honor Land Owners
5. Contingency Plan for Residents During Emergencies
6. Appraisals Update
7. Honor Banning High School Senior Aliyah Amis

**IX. 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.*

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MINUTES  
PLANNING COMMISSIONER INTERVIEWS  
BANNING, CALIFORNIA

10/23/18  
SPECIAL MEETING

A special meeting of the City Council of the City of Banning was called to order by Mayor Moyer on October 23, 2018 at 1:32 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 Welch  
Mayor Pro Tem Peterson  
Mayor Moyer

OTHERS PRESENT: Rochelle Clayton, Deputy City Manager  
Maryann Marks, Interim Community Dev. Director  
Sonja De La Fuente, Deputy City Clerk  
Laurie Sampson, Acting Deputy City Clerk

COMMISSIONER INTERVIEWS

1. Scott Brosious
2. Cynthia Barrington
3. Frank Diaz

PUBLIC COMMENT

None

ADJOURNMENT

By common consent the meeting was adjourned at 2:37 p.m.

Minutes Prepared by:

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Laurie Sampson  
Acting Deputy City Clerk  
City of Banning, California

Attachments:

- Exhibit A: Planning Commissioner Applications
- Exhibit B: Interview Questions
- Exhibit C: Council Ranking Results

**Exhibit “A”**  
**to the October 23, 2018**  
**1:30 p.m. Special City Council Meeting**

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## COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for:

PLANNING COMMISSION

Name: Scott Brosious

Email Address: ScottB4Banning@gmail.com

Address: 328 E Repplier Rd Banning CA 92220

Telephone Numbers: Home \_\_\_\_\_ Cell 951-313-0508

If employed, where do you work and what is your position?  
City of Riverside, City Manager's Office, Communications Supervisor.

Length of residence in Banning 10 years

Are you a registered voter in Banning? Yes ☒ No ☐

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

Growing up in the Riverside area I worked most weekends with my father, a general contractor, who taught me how structures are built and why things like building codes exist. In my 15 years of working at the City of Riverside I have broadcast over 500 City Council meetings, 300+ Planning Commission meetings, and countless other Boards & Commission meetings. From these I learned of the role volunteer commissioners play in local government. In my work experience I have completed training in CEQA, Brown Act, conflict of interest, and many more. I was one of the original members of the Community Advisory Committee in the City of Banning, which worked to better the community.



What types of major issues should this committee or board deal with?

In my view the Planning Commission should mainly deal with land use issues. Reviewing applications for future development. Everything from small scale re-models of existing facilities to large scale development of large housing tracts and retail centers. Decisions should be made without bias, and based solely on facts.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

One of the challenges facing Banning is the fear some residents have of future development destroying their lifestyle. As a communications professional I feel increased communication on such projects in the future could help alleviate such fears if done well in advance of projects coming forward for approval. In an effort to increase public involvement, I would also propose the Planning Commission agenda is published one week earlier in excess of Brown Act requirements. This would allow both the public and planning commission members to have added time to review all the documents.

Your name will be considered by the City Council upon receipt of your application.

***This is a volunteer position. You must be a registered voter and reside in the City of Banning. You will also need to be fingerprinted, pass a background investigation and attend a brief orientation session at City Hall to explain the role of commissioners on Wednesday, October 10, 2018 from 4:00 p.m. to 4:30 p.m.***

Please return to: City Clerk's Office  
City of Banning  
99 E. Ramsey Street  
P. O. Box 998  
Banning, CA 92220

**RETURN BY:** **October 12, 2018**  
**5:00 p.m.**

Thank you for your willingness to serve your local government.

Date: 10-5-18

Signed: Scott Brosious



## COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for:

PLANNING COMMISSION

Name: Cynthia L. Barrington

Email Address: CBarrington51@gmail.com

Address: 1081 Wesley Street, Banning CA 92220

Telephone Numbers: Home 951-849-4725

Cell 909-228-7829

If employed, where do you work and what is your position?

EPIC Management, Director of Laboratory Services

Length of residence in Banning 18 years

Are you a registered voter in Banning? Yes ☒ No ☐

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

BS Biology, San Jose State University; 40 years experience working in clinical laboratories, the last 30 at Beaver Medical Group/EPIC Management. For the past 25 years I have been the Director of Laboratory services which requires knowledge and interpretation of regulatory publications such as the CA Business and Professions Code, the Federal Register, and OSHPD. My duties also include negotiating and administering contracts and interacting with multiple vendors. I feel that my my professional experience, although laboratory-related, provides me with familiarization and interpretation of government regulations such as CEQA, city and county ordinances and zoning laws, the city municipal code, environmental impact reports, etc.



What types of major issues should this committee or board deal with?

I feel that the purpose of this committee is to research the plans submitted and provide an unbiased report to the City Council so that the Council has a clear understanding of what they are voting for. The committee must be mindful of the city's Strategic Plan as well as the General Plan and Amendments. It's critical for Planning Commissioners to carefully review all plans so that accurate recommendations are made and all laws are adhered to.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

I think the most important issue facing the city is finding a compromise between growth and infrastructure. The rapid growth in Beaumont has affected Banning residents as well as Beaumont, so cooperation between the two cities is critical. The current streets and railroad underpasses do not support the already approved growth on the south side of the city, so any future plans must be carefully evaluated unless there are already improvements planned. The Rancho San Geronio project will be ongoing for the next 20 years, so it will be important to ensure that infrastructure needs are assessed and met, and that the city's financial interests are protected. Projects must benefit the city and residents as much as the developer.

Your name will be considered by the City Council upon receipt of your application.

***This is a volunteer position. You must be a registered voter and reside in the City of Banning. You will also need to be fingerprinted, pass a background investigation and attend a brief orientation session at City Hall to explain the role of commissioners on Wednesday, October 10, 2018 from 4:00 p.m. to 4:30 p.m.***

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City of Banning  
99 E. Ramsey Street  
P. O. Box 998  
Banning, CA 92220

**RETURN BY:**

**October 12, 2018  
5:00 p.m.**

Thank you for your willingness to serve your local government.

Date: OCTOBER 1, 2018

Signed: \_\_\_\_\_

*Cynthia L. Barrington*



## COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for:

PLANNING COMMISSION

Name: Frank Diaz

Email Address: frank.diaz626@yahoo.com

Address: 81 W. Repplier Rd

Telephone Numbers: Home (626) 399-3788

Cell (626) 676-2197

If employed, where do you work and what is your position?

Fountain Valley School District: Operations Supervisor

Length of residence in Banning 2yrs

Are you a registered voter in Banning? Yes ☒ No ☐

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

My experience, as it relates to this position, is as follows:

- \* 24yrs experience in facilities, 17yrs experience in Facilities Management.
- \* Provided oversight & supervision on "Lease-Leaseback" and Design/Bid/Build" projects.
- \* I was a member and/or participated in the following committes:
  - California Association of Business Officials (CASBO) - Bond Oversight Committees - Labor Contract Negotiations
  - Coalition for Adequate School Housing (CASH) - Association of California School Administrators (ACSA) - Banning PTA
- \* I hold the position of Secretary in the Banning School District "District-Parent-Advisory-Committee" (DPAC)



What types of major issues should this committee or board deal with?

The major issues that the committee should deal with is as follows:

\* Objectively view projects for their environmental impact, economical impact, historical impact, and long term/community impact

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

The specific problem facing the committee and how i feel it might be resolved is as follows:

\* Problem:

Allowing community growth and modernization while maintaining Bannings strong historical heritage and community base.

Resolution:

Objectively view growth and modernization projects to ensure all projects follow Federal & State guidelines (CEQA, AQMD, CalSTA, CalEPA, etc), as well as objectively listen to community input on long term impact, sustainability, growth, and safety.

Your name will be considered by the City Council upon receipt of your application.

***This is a volunteer position. You must be a registered voter and reside in the City of Banning. You will also need to be fingerprinted, pass a background investigation and attend a brief orientation session at City Hall to explain the role of commissioners on Wednesday, October 10, 2018 from 4:00 p.m. to 4:30 p.m.***

Please return to: City Clerk's Office  
City of Banning  
99 E. Ramsey Street  
P. O. Box 998  
Banning, CA 92220

**RETURN BY:**

**October 12, 2018  
5:00 p.m.**

Thank you for your willingness to serve your local government.

Date: 10/10/18

Signed: \_\_\_\_\_

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MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

10/23/18  
SPECIAL MEETING

A special joint meeting of the Banning City Council was called to order by Mayor Moyer on October 23, 2018 at 3:34 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL/BOARD MEMBERS PRESENT: Council Member Peterson  
Council Member Welch  
Council Member Franklin  
Mayor Moyer

COUNCIL MEMBERS ABSENT: Council Member Andrade

OTHERS PRESENT: Doug Schulze, City Manager  
Rochelle Clayton, Deputy City Manager  
Kevin Ennis, City Attorney  
Tom Miller, Electric Utility Director  
Art Vela, Public Works Director  
Suzanne Cook, Deputy Finance Director  
Stacy Bouslog, Utility Financial Analyst  
Heidi Meraz, Community Services Director  
Sonja De La Fuente, Deputy City Clerk  
Laurie Sampson, Acting Deputy City Clerk

WORKSHOP

1. Master Fee Study

Administrative Services Director/Deputy City Manager Rochelle Clayton, presented the staff report.

Mayor Moyer questioned how these fees compare to our neighboring cities. Ms. Clayton provided some examples of specific comparisons.

Mr. Moyer enquired as to whether our animal control fees as listed are the fees provided by Riverside County Animal Control. Ms. Clayton responded in the affirmative.

Mr. Moyer stated it appeared we have not had a rent increase at the airport since 2015. Art Vela replied in 2015 council approved five annual CPI increases. There has been an increase every year since 2015.



Mayor Pro Tem Peterson asked how long it has been since the City waived fees for new business. Ms. Clayton responded staff will be providing the first quarterly report on the fee waiver in November, including the number of applications and the City has received and the amount of fees that have been waived.

Mr. Peterson expressed amazement at some of the fees charged. For example, water heater, granite countertops, flagpole permits. Are we collecting these fees?

Council Member Art Welch recognized there are a lot of fees to review. Public perception seems to be Banning is a difficult city to deal with. They have to make several trips to City Hall to get everything done. Can we simplify the process by packaging fees by type of project? May be a good project for interns.

Council Member Debbie Franklin queried how can we educate the public on the items that require permits? Ms. Bouslog responded one way would be if they are applying for a rebate we could track if they are permitting the installation. Ms. Clayton suggested this would also be an ideal item for our quarterly newsletter. Ms. Franklin proposed we place notices in the utility bills as well.

Mr. Peterson spoke about the false alarms. Customers gets two free false alarm responses from the Police Department before they get charged. The question is who is maintaining the records so we know when they should be charged? Ms. Clayton had asked the Police Department staff and it appears it has not been monitored nor collected.

Mr. Peterson discussed bicycle licenses. In the time he has lived in this City he has never seen an event or a drive to encourage residents to license their bicycles. Perhaps this would be a good project for Community Services and the Parks Department. This licensing would allow us to return stolen bicycles when Police recover them. Ms. Clayton expressed it has been a staffing issue, perhaps it could fall under code enforcement. Mr. Peterson suggested the CSO (Community Service Officer) and Explorer Program could be involved as well.

The Mayor opened Public Comment.

David Dazlich, Deputy Director of Government Affairs for BIA-Riverside County Chapter had sent a letter earlier today and spoke with the City Attorney, Deputy City Manager, Mayor Moyer and Council Member Welch prior to this meeting. He wants to make sure as this process moves forward they have the opportunity to partner with the City and provide technical expertise.

Mayor Moyer wanted to clarify that Mr. Dazlich had not spoken to himself or anyone else until just prior to this meeting. Mr. Dazlich confirmed.

Mr. Peterson asked Mr. Dazlich about his statement in the letter about the proposed fully burdened hourly rate of the City of Banning seeming especially high, as well as the proposed \$3,732 new single family residence building permit. Also stated in the letter



Banning is the third highest cost in the County. Mr. Peterson asked which Cities are first and second. Mr. Dazlich did not know.

Mr. Dazlich, added the proposed fully burdened hourly rate may not be accurate at this time. BIA would like to be notified when this item comes up for review again.

Ms. Clayton confirmed staff is aware this item is of interest to the BIA but because this study has been reviewed and analyzed so much by City staff, the consultant and committees, she did not want to give notification until she has approval of this rendition of the Master Fee Study.

Mr. Moyer asked how long before Willdan will finalize the report. Ms. Clayton responded approximately two weeks.

There was further review of building permit fees. There was some discussion about the fee schedule being from the International Building Code and would the City adopt those fees or develop their own. The City had previously used the International Building Code Schedule of Fees and Willdan recommended the City update that same schedule. City Manager, Doug Schulze explained every city he has worked for used the International Building Code. Mr. Schulze would like to research if these fees are tailored to costs in California.

Mr. Dazlich stated the BIA is requesting to work with the City to develop these fees.

Ms. Clayton clarified staff is seeking direction as to whether the council would support or oppose using a CPI inflator based on methodology suggested or some other methodology.

Mr. Peterson would like staff to compare our fee schedules to other cities that are in our area.

Mr. Schulze advised Washington State does a user fee study that covers all the cities in the state. He would like to look into whether the State of California has something similar.

Mr. Peterson expressed the fee schedules need to be easier to read and to calculate and can staff look to other cities schedules to pattern it on.

A motion was made by Mr. Welch to direct staff to respond to concerns brought up in today's workshop and bring back for another round of discussions in December. The motion was seconded by Mr. Peterson.

The Mayor opened the floor for public comment. Seeing none, the Mayor closed Public Comment and brought it back for a vote. Motion passed 4-0 based on a voice vote.

## ADJOURNMENT

By common consent the meeting adjourned at 4:19 p.m.

Minutes Prepared by:

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Laurie Sampson, Acting Deputy City Clerk

Attachment: Exhibit A- BIA letter re: Banning User Fee Study  
                  BIA letter re: Master Fee Study Workshop  
          Exhibit B- Willdan Comprehensive User Fee Study Report

**These Action 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=Pn1cHgYaZU9N> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.**

**Exhibit “A”**

**to the October 23, 2018**

**3:30 P.M. Special City Council Meeting**

**BIA Letter re: Banning User Fee Study**

**BIA Letter re: Banning Master Fee Study Workshop**



October 23, 2018

Mayor George Moyer  
Banning City Council  
99 E Ramsey St.  
Banning, CA 92220



**RE: Master Fee Study Workshop**

Dear Mayor Moyer,

Thank you for the opportunity to comment on Banning's Proposed Master Fee Study. The BIA appreciates the long partnership with the City of Banning and our historical collaboration on the many issues affecting both our industry and the City.

The BIA is concerned by the communication challenges surrounding the review and adoption of this new study. Since the May workshop held by the City, BIA staff have been in communication with City staff regarding the timeline for updates to the Study, requests for notification as this item moves forward and a public records request prepared by our consultant. While the BIA was assured by City Staff that we would receive notification of this item, and the BIA maintains a letter on file with the City of Banning requiring notice of any study resulting in fee increases, we were not notified of this workshop, nor of Wildan's completion of their study. Additionally, a public records request sent May 11<sup>th</sup> by the BIA, went unanswered. We are also uncertain what aspects of the draft study have been changed since the May meeting, as our review of Page 69 of the study does not seem to show any changes.

While the BIA understands the need of cities to revisit and update their fees from time to time, this process should include an open dialogue involving stakeholders in the discussions. Given that it has been more than 10 years since the last update to the City's User Fees, this process should be fully vetted and validated and not rushed through.

After an initial review of the Study, the BIA has concerns with the methodology used by Wildan, along with some of the conclusions. The proposed fully-burdened hourly rate seems especially high, as does the proposed \$3,732 new single-family residential building permit; the third highest fee for this type of permit in the County of Riverside.

**The BIA respectfully requests that a meeting be set between Staff and Consultants in order to discuss methodology utilized in this Study and provide an opportunity for technical comment and feedback. The BIA is eager to help the City achieve a fully validated study through collaborative dialogue on this issue.**

If you have any questions, please do not hesitate to contact me at (951) 505-2594 or [ddazlich@riversidebia.org](mailto:ddazlich@riversidebia.org).

Sincerely,

A handwritten signature in black ink, appearing to read "D. Dazlich".

David Dazlich, *Deputy Director of Government Affairs*  
**Riverside County Building Industry Association**

cc City Council,

October 23, 2018

Mayor George Moyer  
Banning City Council  
99 E Ramsey St.  
Banning, CA 92220



**RE: Banning User Fee Study**

Dear Mayor Moyer,

Willdan's proposed fully-burdened hourly rate for a building inspector at \$183.33 and a plan checker at \$161.67 exceed the fully-burdened hourly rates of some the City's managers and directors except for the Economic Development Manager (\$189.58) and the Electric Utility Director (\$193.50). The hourly rate of a Professional in the County of Riverside Building Department was \$183 and the Technical rate was \$163 in FY16/17. Willdan's fee represents the highest rate for a building inspector in the local cities in and in the County of Riverside. The average blended rate of 10 local agencies is \$132.33.

Compare the amount of the annual cost to the City \$381,326 of a full-time inspector paid for 2080 hours at the proposed rate of \$183.33 per hour to the fully-burdened annual cost of the City Manager at \$321,672, the Police Chief at \$322,171, the Public Works Director (water) at \$321,713, and the Economic Development Director at \$394,326.

Willdan's proposed increase in the building permit fee for a 1,500 sf dwelling from the July 1, 2016 rate of \$1,825 to the current proposed fee of \$3,731 represents an increase of \$1,906 or 104%. The City recently increased building permit fees for a 1,500 sf dwelling by \$935 (51%). Willdan proposes that the current building permit fee of \$2,760 as published on 10/15/18 increase by an additional \$972.

If 50% of the cost of Willdan's proposed building permit fee for a 1,500 sf dwelling covers the cost of inspection (\$1,865.61) the inspector would need to spend 10.18 hours inspecting that building at the rate of \$183.33 per hour.

Willdan's proposed fee of \$3,732 for a 1,500 sf new single-family residential building permits represents the third highest fee for this type of permit studied by BIA in the County of Riverside local agencies since 2012. Willdan performed four of these 14 fee studies, including Banning's. Willdan's fee study for the City of Murrieta dated 12/15/17 proposed combined plan check and inspection fees for a similar sized model home of \$2,346 and a repeat production house fee of \$1,403.

The City issued fewer than ten (10) new single-family residential building permits between 2008 and 5/10/2018.

What criteria did Willdan use in proposing their permit fee for a 1,500 sq ft dwelling?

The hourly rate increase for the Building Department's research from \$88 to \$110 represents a 25% increase.

BIA recommends that the City adopt a position that directs Willdan to adjust their recommendations to increase Building Department fees by the proposed CPI discussed in the staff report.



Sincerely,

Morgan Keith, Consultant

**Riverside County Building Industry Association**

**Exhibit “B”**

**to the October 23, 2018**

**3:30 P.M. Special City Council Meeting**

**Willdan Comprehensive User Fee Study Report**



# City of Banning

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## Comprehensive User Fee Study Report

March 9, 2018



### *Corporate Office:*

27368 Via Industria

Suite 200

Temecula, CA 92590

Tel: (951) 587-3500

Tel: (800) 755-6864

Fax: (951) 587-3510

### *Office Locations:*

Anaheim, CA

Oakland, CA

Sacramento, CA

New York, NY

Orlando, FL

[www.willdan.com](http://www.willdan.com)

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## EXECUTIVE SUMMARY

The City of Banning engaged Willdan Financial Services (Willdan) to determine the full costs incurred by the City to support the various activities for which the City charges user fees. Due to the complexity and the breadth of performing a comprehensive review of fees, Willdan employed a variety of fee methodologies to identify the full costs of individual fee and program activities. This report and the appendices herein identifies 100% full cost recovery for City services and the recommended level of recovery as determined through discussion with departmental staff.

The reality of the local government fee environment is that significant increases to achieve 100% cost recovery can often not be feasible, desirable, or appropriate depending on policy direction —particularly in a single year. The recommended fees identified herein are either at or less than full cost recovery.



## USER FEE BACKGROUND

### BACKGROUND

As part of a general cost recovery strategy, local governments adopt user fees to fund programs and services that provide limited or no direct benefit to the community as a whole. As cities struggle to maintain levels of service and variability of demand, they have become increasingly aware of subsidies provided by the General Fund and have implemented cost-recovery targets. To the extent that governments use general tax monies to provide individuals with private benefits, and not require them to pay the full cost of the service (and, therefore, receive a subsidy), the government is limiting funds that may be available to provide other community-wide benefits. In effect, the government is using community funds to pay for private benefit. Unlike most revenue sources, cities have more control over the level of user fees they charge to recover costs, or the subsidies they can institute.

Fees in California are required to conform to the statutory requirements of the California Constitution, Proposition 218, and the California Code of Regulations. The Code also requires that the City Council adopt fees by either ordinance or resolution, and that any fees in excess of the estimated total cost of rendering the related services must be approved by a popular vote of two-thirds of those electors voting because the charge would be considered a tax and not a fee.

### CALIFORNIA USER FEE HISTORY

Before Proposition 13, California cities were less concerned with potential subsidies and recovering the cost of their services from individual fee payers. In times of fiscal shortages, cities simply raised property taxes, which funded everything from police and recreation to development-related services. However, this situation changed with the passage of Proposition 13 in 1978.

Proposition 13 established the era of revenue limitation in California local government. In subsequent years, the state saw a series of additional limitations to local government revenues. Proposition 4 (1979) defined the difference between a tax and a fee: a fee can be no greater than the cost of providing the service; and Proposition 218 (1996) further limited the imposition of taxes for certain classes of fees. As a result, cities were required to secure a supermajority vote in order to enact or increase taxes. Since the public continues to resist efforts to raise local government taxes, cities have little control and very few successful options for new revenues. Compounding this limitation, the State of California took a series of actions in the 1990's and 2000's to improve the State's fiscal situation—at the expense of local governments. As an example, in 2004-05, the Educational Revenue Augmentation Funds ("ERAF") take-away of property taxes and the reduction of Vehicle License Fees have severely reduced local tax revenues.

In addition, on November 2, 2010, California voters approved Proposition 26, the "Stop Hidden Taxes Initiative", which is aimed at defining "regulatory fees" as a special tax rather than a fee, thus requiring approval by two-thirds vote of local voters. These regulatory fees are typically intended to mitigate the societal and environmental impacts of a business or person's activities. Proposition 26 contains seven categories of exceptions. The vast majority of fees that cities would seek to adopt will most likely fall into one or more of these exemptions.

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## ADDITIONAL POLICY CONSIDERATIONS

The recent trend for municipalities is to update their fee schedules to reflect the actual costs of certain public services primarily benefitting users. User Fees recover costs associated with the provision of specific services benefiting the user, thereby reducing the use of General Fund monies for such purposes.

In addition to collecting the direct cost of labor and materials associated with processing and administering user services, it is common for local governments to recover support costs. Support costs are those costs relating to a local government's central service departments that are properly allocable to the local government's operating departments. Central services support cost allocations were incorporated using the resulting indirect overhead percentages determined through the Cost Allocation Plan. This plan was developed prior to the User Fee study to determine the burden placed upon central services by the operating departments in order to allocate a proportionate share of central service cost.

As labor effort and costs associated with the provision of services fluctuate over time, a significant element in the development of any fee schedule is that it has the flexibility to remain current. Therefore, it is recommended that the City include an inflationary factor in the resolution adopting the fee schedule to allow the City Council, by resolution, to annually increase or decrease the fees.

The City may employ many different inflationary factors. The most commonly used inflator is some form of the Consumer Price Index (CPI) as it is widely well known and accepted. A similar inflator is the implicit price deflator for GDP, which is much like the CPI except that while the CPI is based on the same "basket" of goods and services every year, the price deflators' "basket" can change year to year. Since the primary factor for the cost of a City's services is usually the costs of the personnel involved, tying an inflationary factor that connects more directly to the personnel costs can be suitable if there is a clear method, or current practice of obtaining said factor.

Each City should use an inflator that they believe works the best for their specific situation and needs. It is also recommended that the City perform this internal review annually with a comprehensive review of services and fees performed every three to five years, which would include adding or removing fees for any new or eliminated programs/services.



## STUDY OBJECTIVE

As the City of Banning seeks to efficiently manage limited resources and adequately respond to increased service demands, it needs a variety of tools. These tools provide assurance that the City has the best information and the best resources available to make sound decisions, fairly and legitimately set fees, maintain compliance with state law and local policies, and meet the needs of the City administration and its constituency. Given the limitations on raising revenue in local government, the City recognizes that a User Fee Study is a very cost-effective way to understand the total cost of services and identify potential fee deficiencies. Essentially, a User Fee is a payment for a requested service provided by a local government that primarily benefits an individual or group.

The total cost of each service included in this analysis is based on the full cost of providing City services, including direct salaries and benefits of City staff, direct departmental costs, and indirect costs from central service support. This study determines the full cost recovery fee for the City to provide each service; however, each fee is set at the City's discretion, up to 100% of the total cost, as specified in this report.

The principle goal of the study was to help the City determine the full cost of the services that the City provides. In addition, Willdan established a series of additional objectives including:

- Developing a rational basis for setting fees
- Identifying subsidy amount, if applicable, of each fee in the model
- Enhancing fairness and equity
- Ensuring compliance with State law
- Developing an updatable and comprehensive list of fees
- Maintaining accordance with City policies and goals

The study results will help the City better understand its true costs of providing services and may serve as a basis for making informed policy decisions regarding the most appropriate fees, if any, to collect from individuals and organizations that require individualized services from the City.

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## SCOPE OF THE STUDY

The scope of this study encompasses a review and calculation of the user fees charged by the following Banning departments and fee groups:

- Finance and Administration
- Animal Control
- Community Services
- Airport
- Building
- Planning
- Utility Billing
- Electric Utility
- Police
- Fire
- Engineering

The study involved the identification of existing and potential new fees, fee schedule restructuring, data collection and analysis, orientation and consultation, quality control, communication and presentations, and calculation of individual service costs (fees) or program cost recovery levels.

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## AIM OF THE REPORT

The User Fee Study focused on the cost of City services, as City staff currently provides them at existing, known, or reasonably anticipated service and staff levels. This report provides a summary of the study results, and a general description of the approach and methods Willdan and City staff used to determine the recommended fee schedule. The report is not intended to document all of the numerous discussions throughout the process, nor is it intended to provide influential dissertation on the qualities of the utilized tools, techniques, or other approaches.



## PROJECT APPROACH AND METHODOLOGY

### CONCEPTUAL APPROACH

The basic concept of a User Fee Study is to determine the “reasonable cost” of each service provided by the City for which it charges a user fee. The full cost of providing a service may not necessarily become the City’s fee, but it serves as the objective basis as to the maximum amount that may be collected.

The standard fee limitation established in California law for property-related (non-discretionary) fees is the “estimated, reasonable cost” principle. In order to maintain compliance with the letter and spirit of this standard, every component of the fee study process included a related review. The use of budget figures, time estimates, and improvement valuation clearly indicates reliance upon estimates for some data.

### FULLY BURDENED HOURLY RATES

The total cost of each service included in this analysis is primarily based on the Fully Burdened Hourly Rates (FBHRs) that were determined for City personnel directly involved in providing services. The FBHRs include not only personnel salary and benefits, but also any costs that are reasonably ascribable to personnel. The cost elements that are included in the calculation of fully burdened rates are:

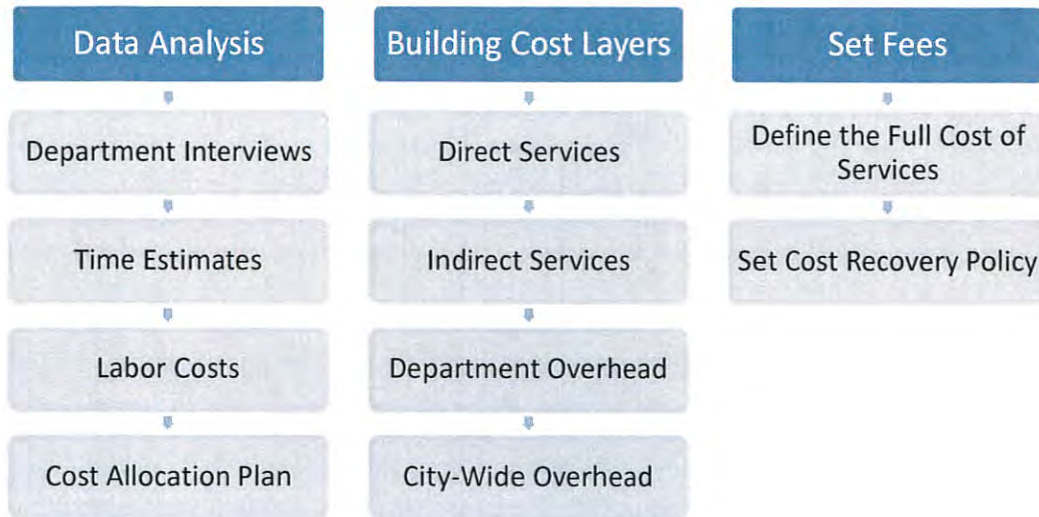
- Salaries & benefits of personnel involved
- Operating costs applicable to fee operations
- Departmental support, supervision, and administration overhead
- Internal Service Costs charged to each department
- Indirect City-wide overhead costs calculated through the Cost Allocation Plan

An important factor in determining the fully burdened rate is in the calculation of productive hours for personnel. This calculation takes the available workable hours in a year of 2,080 and adjusts this figure to account for calculated or anticipated hours’ employees are involved in non-billable activities such as paid vacation, sick leave, emergency leave, holidays, and other considerations as necessary. Dividing the full cost by the number of productive hours provides the FBHR.

The FBHRs are then used in conjunction with time estimates, when appropriate, to calculate a fees' cost based on the personnel and the amount of their time that is involved in providing each service.

## SUMMARY STEPS OF THE STUDY

The methodology to evaluate most User Fee levels is straightforward and simple in concept. The following list provides a summary of the study process steps:



## ALLOWABLE COSTS

This report identifies three types of costs that, when combined, constitute the fully burdened cost of a service ([Appendix A](#)). Costs are defined as direct labor, including salary and benefits, departmental overhead costs, and the City's central services overhead, where departmental and central service overhead costs constitute support costs. These cost types are defined as follows:

- **Direct Labor (Personnel Costs):** The costs related to staff salaries for time spent directly on fee-related services.
- **Departmental Overhead:** A proportional allocation of departmental overhead costs, including operation costs such as supplies and materials that are necessary for the department to function.
- **Central Services Overhead:** These costs, detailed in the City's Cost Allocation Plan, represent services provided by those Central Services Departments whose primary function is to support other City departments.





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## METHODOLOGY

The two methods of analysis for calculating fees used in this report are the:

**Case Study Method (Standard Unit Cost Build-Up Approach):** This approach estimates the actual labor and material costs associated with providing a unit of service to a single user. This analysis is suitable when City staff time requirements do not vary dramatically for a service, or for special projects where the time and cost requirements are easy to identify at the project's outset. Further, the method is effective in instances when a staff member from one department assists on an application, service or permit for another department on an as-needed basis. Costs are estimated based upon interviews with City staff regarding the time typically spent on tasks, a review of available records, and a time and materials analysis.

**Programmatic Approach:** The standard Case Study approach relies upon the detailed analysis of specific time estimates, salaries and benefits, expenditures, and overhead costs. In many instances, the underlying data are not available or vary widely, leaving a standard unit cost build-up approach impractical. In addition, market factors and policy concerns (as opposed to actual costs) tend to influence fee levels more than other types of services. With these general constraints, and to maximize the utility of this analysis, Willdan employed a different methodology where appropriate to fit the programs' needs and goals.

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## QUALITY CONTROL/QUALITY ASSURANCE

All study components are interrelated, thus flawed data at any step in the process will cause the ultimate results to be inconsistent and unsound. The elements of our Quality Control process for User Fee calculations include:

- Involvement of knowledgeable City staff
- Clear instructions and guidance to City staff
- Reasonableness tests and validation
- Normalcy/expectation ranges
- FTE balancing
- Internal and external reviews
- Cross-checking

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## REASONS FOR COST INCREASES/DECREASES OVER CURRENT FEES

Within the fee tables in Appendix C, the differences identified between the full costs calculated through the study and the fee levels currently in effect. The reasons for differences between the two can arise from a number of possible factors including:

- Previous fee levels may have been set at levels less than full cost intentionally, based on policy decisions
- Staffing levels and the positions that complete fee and service activity may vary from when the previous costs were calculated
- Personnel and materials costs could have increased at levels that differed from any inflationary factors used to increase fees since the last study
- Costs that this study has identified as part of the full cost of services may not have been accounted for in a previous study
  - Departmental overhead and administration costs
  - Indirect overhead from the Cost Allocation Plan
- Changes in processes and procedures within a department, or the city as a whole

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## CITY STAFF CONTRIBUTIONS

As part of the study process, Willdan received tremendous support and cooperation from City staff, which contributed and reviewed a variety of components to the study, including:

- Budget and other cost data
- Staffing structures
- Fee and service structures, organization, and descriptions
- Direct and indirect work hours (billable/non-billable)
- Time estimates to complete work tasks
- Frequency and current fee levels
- Review of draft results and other documentation

A User Fee Study requires significant involvement of the managers and line staff from the departments—on top of their existing workloads and competing priorities. The contributions from City staff were critical to this study. We would like to express our appreciation to the City and its staff for their assistance, professionalism, positive attitudes, helpful suggestions, responsiveness, and overall cooperation.



## BANNING USER FEES

### COST RECOVERY

The cost recovery models, by department/division fee type, are presented in detail in Appendix C. Full cost recovery is determined by summing the estimated amount of time each position (in increments of minutes or hours) spends to render a service. Time estimates for each service rendered were predominately determined by Willdan and City Staff through a time and materials survey conducted for each department/division fee included in the study. The resulting cost recovery amount represents the total cost of providing each service. The City's current fee being charged for each service, if applicable, is provided in this section, as well, for reference.

It is important to note that the time and materials survey used to determine the amount of time each employee spends assisting in the provision of the services listed on the fee schedule is essential in identifying the total cost of providing each service. Specifically, in providing services, a number of employees are often involved in various aspects of the process, spending anywhere from a few minutes to several hours on the service.

The principle goal of this study was to identify the cost of City services, to provide information to help the City make informed decisions regarding the actual fee levels and charges. The responsibility to determine the final fee levels is a complicated task. City staff must consider many issues in formulating recommendations, and the City Council must consider those same issues and more in making the final decisions.

City staff assumes the responsibility to develop specific fee level recommendations to present to the City Council. Unfortunately, there are no hard and fast rules to guide the City, since many of the considerations are based on the unique characteristics of the City of Banning, and administrative and political discretion. However, in setting the level of full cost recovery for each fee, one should consider whether the service solely benefits one end user or the general community.

### SUBSIDIZATION

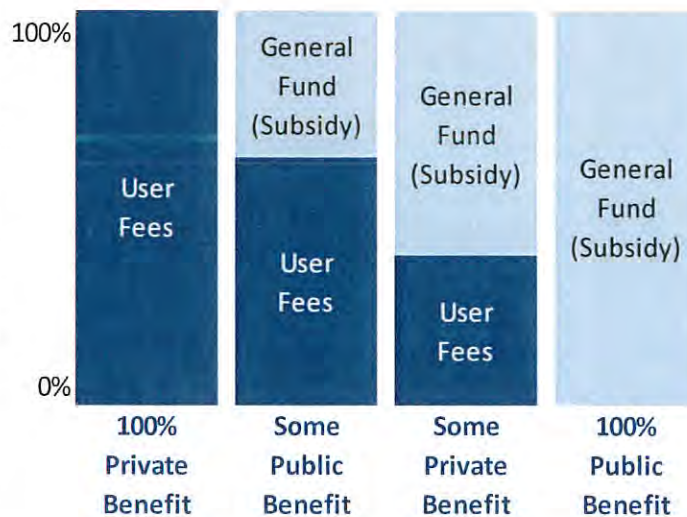
Recalling the definition of a user fee helps guide decisions regarding subsidization. The general standard is that individuals (or groups) whom receive a wholly private benefit should pay 100% of the full cost of the services. In contrast, services that are simply public benefit should be funded entirely by the general fund's tax dollars. Unfortunately, for the decision makers, many services fall into the range between these two extremes. The graphic on the following page illustrates the potential decision basis.

Further complicating the decision, opponents of fees often assert that the activities subject to the fees provide economic, cultural, "quality of life," or other community benefits that exceed the costs to the City. It is recommended the City consider such factors during its deliberations regarding appropriate fee levels.

Of course, subsidization can be an effective public policy tool, since it can be used to reduce fees to encourage certain activities (such as compliance inspections to ensure public safety) or allow some people to be able to afford to receive services they otherwise could not at the full cost. In addition, subsidies can be an appropriate and justifiable action, such as to allow citizens to rightfully access services, without burdensome costs.

Despite the intent, it is important for the City and public to understand that subsidies must be covered by another revenue source, such as the General

Fund. Therefore, the general taxpayer will potentially help to fund private benefits, and/or other City services will not receive funds that are otherwise directed to cover subsidies.



## IMPACT ON DEMAND (ELASTICITY)

Economic principles of elasticity suggest that increased costs for services (higher fees) will eventually curtail the demand for the services; whereas lower fees may spark an incentive to utilize the services and encourage certain actions. Either of these conditions may be a desirable effect to the City. However, the level of the fees that would cause demand changes is largely unknown. The Cost of Service Study did not attempt to evaluate the economic or behavioral impacts of higher or lower fees; nevertheless, the City should consider the potential impacts of these issues when deciding on fee levels.

## SUMMARY

If the City's principal goal of this study were to maximize revenues from user fees, Willdan would recommend setting user fees at 100% of the full cost identified in this study. However, we understand that revenue enhancement is not the only goal of a cost of service study, and sometimes full-cost recovery is not needed, desired, or appropriate. Other City and departmental goals, City Council priorities, policy initiatives, past experience, implementation issues, and other internal and external factors may influence staff recommendations and City Council decisions. In this case, the proper identification of additional services (new or existing services) and creation of a consistent and comprehensive fee schedule was the primary objective of this study. City staff has reviewed the full costs and identified the "recommended fee levels" for consideration by City Council. The attached appendices exhibit these unit fees individually.

The preceding sections provide background for each department or division and the results of this study's analysis of their fees. For the full list of each fee's analysis, refer to Appendix C of this report.



## FINANCE AND ADMINISTRATION

The Administrative Services Department consists of the Fiscal Services, Human Resources, Purchasing, and Utility Billing Divisions. The fees included in this section are primarily related to duplications fees. A separate section below pertains to Utility Billing services.

### ANALYSIS

Willdan individually reviewed the services associated with Finance and Administration. The review also consisted of an evaluation of existing services in an effort to update the fee schedule.

The user fee activity associated with Finance and Administration services is predominantly related to providing for records request. These activities are regulated by the California Public Records Act, and the fees listed in [Appendix C](#) are set in accordance to recover the cost of duplication of records and research requests that go beyond the guidelines set in the Act. All fees are proposed to stay at its current level as detailed in [Appendix C](#).

## ANIMAL CONTROL

Animal Control services are handled by the City of Beaumont. Animals caught by Beaumont's Animal Control are held at Beaumont PD and are transported once per day to Ramona Animal Shelter in San Jacinto.

### ANALYSIS

The services detailed in the Animal Control section are contracted out and is therefore set to remain unchanged as detailed in [Appendix C](#).

## COMMUNITY SERVICES

The Community Services Department enhances residents' quality of life through providing affordable, quality recreational and leisure activities. The division is responsible for the development, implementation, coordination, supervision, and delivery of a wide variety of programs including youth and adult sports, instructional classes, teen programs, day camps and special events. Allocations of sports fields and reservations of park picnic shelters as well as rental of the Community Center, Senior Center, Park Buildings and meeting rooms and the processing of Special Events Permits are also handled through the department.

### ANALYSIS

Willdan individually reviewed the services associated with the Community Services Department. The review also consisted of an evaluation of existing services in an effort to update the fee schedule.

The analysis of Community Service programs encompassed facility rentals, park rentals, and other community services. The analysis for most service groups involved using a combination of programmatic methods and the case study method so that the estimated cost per participant in a given program could be determined. The analysis found

that the City was recovering less than full cost for most Community Services as detailed in [Appendix C](#). It is generally accepted that some Community Service programs provide a measure of public benefit to the residents and City as a whole. In addition, cities generally want to ensure that their programs and services remain affordable to the community at large, and that the programs remain competitive with surrounding jurisdictions. As such while there are some proposed increased fees for services, most are still recommended to retain substantial subsidies.

## AIRPORT

The Banning Municipal Airport is an element of the national and local transportation system, which significantly affects the economic development of the City of Banning. A sound and realistic planning of Airport operations has the means to increase its contribution to the economy of the community.

### ANALYSIS

Currently, there is a 5-year plan in place and is therefore set to remain unchanged as detailed in [Appendix C](#).

## BUILDING

The Building Division is responsible for the development and implementation of construction standards for safeguarding life, health, and public welfare through the enforcement of the model building codes adopted by the State of California. The division also enforces City, State, and Federal regulations governing building use, occupancy, handicap accessibility, and housing standards. The Building Division is also responsible for reviewing plans, issuing permits, and performing inspections of construction projects in the City and coordination of approvals from other departments and agencies relative to permit issuance.

### ANALYSIS

Willdan individually reviewed the services and programs associated with the Building Division. The review also consisted of an evaluation of existing services in an effort to update the fee schedule.

The analysis of Building relied primarily upon a standard unit cost build-up approach, whereby we determined the reasonable cost of each fee occurrence using staff time to recover the direct cost of staff and pro-rata share of departmental costs, including indirect costs for City Central Services. The current fee schedule was outdated and inflexible to the current needs of providing service. During the study process staff with the help of Building consultants created an updated fee schedule to better serve the community based on today's needs. It is recommended that the City set Building services at 100% cost recovery as detailed in [Appendix C](#).



## PLANNING

The Planning Division has the responsibility of maintaining the City's physical environment by monitoring the various components that impact the quality of life for residents. It is primarily concerned with providing services that promote the community's short and long-term interests by fostering quality development in both its residential and commercial areas. It informs the community regarding the State of California regulations that concern development. The divisions staff provides services and conducts activities which guide the City's orderly development by applying the current zoning codes, facilitating development, implementing community plans, preserving architectural and historic landmarks. As well as providing information on land use, zoning, site development standards, general plan policies, and council directed study issues.

### ANALYSIS

Willdan individually reviewed the services and programs associated with the Planning Division. The review also consisted of an evaluation of existing services in an effort to update the fee schedule.

The analysis of services in Planning fees relied primarily upon a standard unit cost build-up approach, whereby we determined the reasonable cost of each fee occurrence using staff time to recover the direct cost of staff and pro-rata share of departmental costs, including indirect costs for City Central Services. Willdan then compared the calculated full cost against the current fee amount to determine whether the current fee is recovering the costs associated with the requested service. Some fees also contain a deposit aspect to allow for more precise accounting of costs on a project by project basis. This fee format allows for the establishment of flat fee amounts for aspects of services that do not vary greatly, and utilizes deposits for service aspects that do vary. Deposits are set at reasonable levels based on staff experience. It is recommended that the City set Planning services at 100% cost recovery for most services as detailed in [Appendix C](#).

## UTILITY BILLING

The Utility Billing Division is responsible for preparing and collecting the bills for electricity, water, wastewater, and trash. In addition, the division also serves as the central revenue collection point for the City and maintains a customer service counter for all new customers.

### ANALYSIS

Willdan individually reviewed the services and programs associated with the Utility Billing Division. The review also consisted of an evaluation of existing services in an effort to update the fee schedule.

The analysis of Utility Billing services relied primarily upon a standard unit cost build-up approach, whereby we determined the reasonable cost of each fee occurrence using staff time to recover the direct cost of staff and pro-rata share of departmental costs, including indirect costs for City Central Services. Only user fees were analyzed as part of this study. All others, while included in the tables, were left at their current levels. It is recommended that the City set Utility Billing user fee services at or near 100% cost recovery as detailed in [Appendix C](#).

## ELECTRIC UTILITY

The Electric Department provides economical, reliable, and safe distribution of electricity to residents and businesses in the City of Banning. The Department's Staff accomplish this through continual attention to our physical plant and to a wide array of legal, financial, and engineering considerations. The Electric Department procures the majority of its electricity through contracts with the Southern California Public Power Authority. These contracts include participation in the San Juan coal plant, the Palo Verde nuclear plant, and the Hoover hydro facility.

### ANALYSIS

Willdan individually reviewed the services and programs associated with Electric Utility Department. The review also consisted of an evaluation of existing services in an effort to update the fee schedule.

The analysis of Electric Utility services relied primarily upon a standard unit cost build-up approach, whereby we determined the reasonable cost of each fee occurrence using staff time to recover the direct cost of staff and pro-rata share of departmental costs, including indirect costs for City Central Services. It is recommended that the City set Electric Utility services at or near 100% cost recovery as detailed in Appendix C.

## POLICE

The Police Department is committed to serve with honor and protect all the citizens of Banning. The Police Department offers a variety of services such as Field Patrol, Emergency Tactical Unit, School Resource Officers, Field Training Officers, and the Reserve Police Officer Program.

### ANALYSIS

Willdan individually reviewed the services and programs associated with Police Department. The review also consisted of an evaluation of existing services in an effort to update the fee schedule.

The fees listed under the Police Department are primarily penalties meant to deter undesirable activities. Some were calculated using a standard unit cost build-up approach, whereby we determined the reasonable cost of each fee occurrence using staff time to recover the direct cost of staff and the pro-rata share of departmental costs, including indirect costs for City Central Services. Willdan then compared the calculated full cost against the current fee amount to determine, if charges, whether the current fee is recovering the costs associated with the requested service. There are no changes recommended for the penalties, but the other fees are set at a recommended at or near 100% cost recovery level as detailed in Appendix C.



## FIRE

The City of Banning has contracted fire protection with the Riverside County Fire Department since September 1998. The County fire department is a “full service” department providing not only fire protection, but other services such as Paramedic Response, Search and Rescue, Full Fire Prevention Support, and Disaster Preparedness.

### ANALYSIS

Willdan individually reviewed the services and programs associated with Fire Department. The review also consisted of an evaluation of existing services in an effort to update the fee schedule.

The analysis of Fire services relied primarily upon a standard unit cost build-up approach, whereby we determined the reasonable cost of each fee occurrence using staff time to recover the direct cost of staff and pro-rata share of departmental costs, including indirect costs for City Central Services. It is recommended that the City set Fire services at or near 100% cost recovery as detailed in [Appendix C](#).

## ENGINEERING

The Engineering Division is responsible for planning, design, and contract administration of streets, traffic, drainage, refuse collection, National Pollutant Discharge Elimination System (NPDES), and Airport related projects. The department also coordinated and reviews private development projects and related construction in the public right-of-ways and ensures compliance with City codes and standards of work. In addition, to these responsibilities, the division provides necessary assistance to other departments to accomplish its special projects on an as-needed basis.

### ANALYSIS

Willdan individually reviewed the services and programs associated with the Engineering Division. The review also consisted of an evaluation of existing services in an effort to update the fee schedule.

The analysis of Engineering services relied primarily upon a standard unit cost build-up approach, whereby we determined the reasonable cost of each fee occurrence using staff time to recover the direct cost of staff and the pro-rata share of departmental costs, including indirect costs for City Central Services. This analysis has shown that most of the fees are not currently achieving full cost recovery. It is recommended that Engineering fees be set at or near 100% cost recovery levels as detailed in [Appendix C](#).

## APPENDIX A – TOTAL ALLOWABLE COST TO BE RECOVERED

Below are the total allowable costs that may be recovered through User Fees; however, only a percentage of the total allowable cost is realized as staff not only works on services related to User Fees, but also works on an array of other City functions during the operational hours of the City. The amounts listed below will not reconcile to City budgets as costs that should not be included in overhead for personnel in the application of determining fully burdened hourly rates were excluded. Examples of these costs are capital, debt, monetary transfers, contract costs, and any other costs that is charged directly to the service requestor.

Department	Salary and Benefits	Department Operations	Direct Overhead %	Indirect Allocation %
001: Aquatics	82,515	48,009	58.2%	4.5%
001: Building Maintenance	53,044	22,191	41.8%	0.0%
001: Building Safety	127,610	13,581	10.6%	2.9%
001: City Clerk	90,823	9,588	10.6%	0.0%
001: City Manager	208,542	10,289	4.9%	0.0%
001: Code Enforcement	210,627	37,347	17.7%	3.0%
001: Dispatch	768,553	3,686	0.5%	3.3%
001: Economic Development	1,483	84	5.7%	114.0%
001: Engineering	100,191	35,438	35.4%	8.1%
001: Fiscal Services	474,668	-	0.0%	0.0%
001: Parks	245,916	68,386	27.8%	5.0%
001: Planning	204,278	19,192	9.4%	2.8%
001: Police	4,727,160	443,521	9.4%	3.2%
001: Purchasing & A/P	66,191	10,680	16.1%	0.0%
001: Recreation	209,389	48,159	23.0%	5.8%
003: County of Riverside - MOU	477,949	-	0.0%	2.3%
100: Gas Tax Street Fund	466,058	163,391	35.1%	7.5%
600: Airport Fund	12,171	13,024	107.0%	9.4%
610: Transit Fund	1,074,917	201,290	18.7%	4.7%
660: Water Fund	1,319,416	279,334	21.2%	3.0%
670: Electric Fund	3,579,644	1,095,168	30.6%	3.5%
680: Wastewater Fund	541,902	368,259	68.0%	2.4%
690: Refuse Fund	85,762	40,292	47.0%	1.2%
703: Information Systems Services	280,580	134,261	47.9%	0.0%
761: Utility Billing, Acct & Coll Services	1,297,820	506,988	39.1%	0.0%



## APPENDIX B – FULLY BURDENED HOURLY RATES

Below are fully burdened hourly rates of staff positions that provide for the services detailed in [Appendix C](#). The FBHRs were used to determine the full cost of each service. They include the salary and benefit costs for each position as well as all applicable overhead amounts for each position. For positions in central service departments, such as the City Clerk and Finance, what is shown is the salary and benefit rate only, as the overhead of central service departments is recovered through the cost allocation plan. When a central service department position works on a fee or project in the purview of an operating department, the overhead rates of the operating department (shown in [Appendix A](#)) will be applied to that central service positions' salary and benefit rate for full cost recovery. For any user fee service request that is outside the scope of the fees detailed in [Appendix C](#), or for services for which there is no fee currently set, the City can charge up to the full cost of the FBHR for personnel involved.

### City of Banning, CA

#### Fully Burdened Hourly Rate Calculation

Department	Position	Fully Burdened Hourly Rate
<b>Position Rates</b>		
600: Airport Fund	Airport Fund- Airport Attendant	34.88
001: Aquatics	Aquatics- Community Center Caretaker	52.97
001: Aquatics	Aquatics - Pool Manager	21.07
001: Aquatics	Aquatics - Assist Pool Manager	21.07
001: Aquatics	Aquatics - Lifeguards	19.91
001: Aquatics	Aquatics - Cashier	18.18
001: Building Safety	Building Safety- Office Specialist	40.94
001: City Clerk	City Clerk- City Clerk/Executive Assistant	59.98
001: City Manager	City Manager- City Manager	154.65
001: City Manager	City Manager- Exec Asst/Deputy City Clerk	46.21
001: Code Enforcement	Code Enforcement- Code Compliance Officer	67.54
003: County of Riverside - MOU	County of Riverside - Police Officer	47.73
001: Dispatch	Dispatch- Lead Public Safety Dispatcher	56.17
001: Dispatch	Dispatch- Public Safety Dispatcher	44.77
001: Economic Development	Economic Development- Economic Development Manager	189.58
001: Engineering	Engineering- Associate Engineer W/Certif.	128.97
001: Engineering	Engineering- Management Analyst	99.49
001: Engineering	Engineering- Public Works Inspector	88.08
001: Engineering	Engineering- Senior Civil Engineer	111.34
001: Fiscal Services	Fiscal Services- Accountant	45.78
001: Fiscal Services	Fiscal Services- Accountant II	54.08
001: Fiscal Services	Fiscal Services- Accounting Specialist	42.55
001: Fiscal Services	Fiscal Services- Administrative Services Director	134.73
001: Fiscal Services	Fiscal Services- City Treasurer	9.67
001: Fiscal Services	Fiscal Services- Finance Manager	75.42
001: Fiscal Services	Fiscal Services- Financial Services Specialist	44.39
001: Fiscal Services	Fiscal Services- P.T Financial Services Specialist	29.28

## City of Banning, CA

### Fully Burdened Hourly Rate Calculation

Department	Position	Fully Burdened Hourly Rate
<b>Position Rates</b>		
100: Gas Tax Street Fund	Gas Tax Street Fund- Motor Sweeper Operator	68.42
100: Gas Tax Street Fund	Gas Tax Street Fund- Senior Maintenance Worker	60.74
100: Gas Tax Street Fund	Gas Tax Street Fund- Work Release Crew Leader	64.72
703: Information Systems Services	Information Systems - Information Technol/Media Tech	80.86
703: Information Systems Services	Information Systems - Information Technology Manager	95.46
001: Parks	Parks- Maintenance Worker	44.77
001: Parks	Parks- Public Works Superintendent	114.01
001: Planning	Planning- Community Development Dir	127.82
001: Planning	Planning- Development Project Coordinator	62.05
001: Planning	Planning- Senior Planner	92.74
001: Police	Police- Executive Assistant	61.24
001: Police	Police- Police Assistant I	40.26
001: Police	Police- Police Assistant II	48.83
001: Police	Police- Police Captain	128.26
001: Police	Police- Police Chief	154.89
001: Police	Police- Police Corporal	82.78
001: Police	Police- Police Information Technol.Tec	64.15
001: Police	Police- Police Officer	68.56
001: Police	Police- Police Sergeant	87.73
001: Police	Police- Police Staff Sergeant	86.92
001: Police	Police- Police Lieutenant	120.48
675: Public Benefit Fund	Public Benefit Fund- Utility Services Assistant	56.88
001: Purchasing & A/P	Purchasing & A/P- Financial Service Specialist	50.50
001: Purchasing & A/P	Purchasing & A/P- Purchasing Manager	71.54
001: Recreation	Recreation- P.T Receptionist	15.06
001: Recreation	Recreation - Leader	18.10
001: Recreation	Recreation - Senior Recreation Leader	16.59
001: Recreation	Recreation - Recreation Sports Leader	20.24
001: Recreation	Recreation- Program Coordinator	53.38
690: Refuse Fund	Refuse Fund- Public Information Officer	74.83
610: Transit Fund	Transit Fund- Bus Driver	50.19
610: Transit Fund	Transit Fund- Community Services Director	120.28
610: Transit Fund	Transit Fund- Community Services Manager	85.62
610: Transit Fund	Transit Fund- Executive Secretary	55.03
610: Transit Fund	Transit Fund - Part Time Bus Driver	23.26
610: Transit Fund	Transit Fund - Dial-a-ride	23.26
610: Transit Fund	Transit Fund- Transit Field Supervisor	67.18
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Customer Service&Billing Manager	75.85
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Field Service Representative	64.56
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Lead Field Service Rep.	72.09



## City of Banning, CA

### Fully Burdened Hourly Rate Calculation

Department	Position	Fully Burdened Hourly Rate
<b>Position Rates</b>		
100: Gas Tax Street Fund	Gas Tax Street Fund- Motor Sweeper Operator	68.42
100: Gas Tax Street Fund	Gas Tax Street Fund- Senior Maintenance Worker	60.74
100: Gas Tax Street Fund	Gas Tax Street Fund- Work Release Crew Leader	64.72
703: Information Systems Services	Information Systems - Information Technol/Media Tech	80.86
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Management Analyst	40.17
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Office Specialist	40.12
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Sr.Utility Billing Representative	62.46
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Utility Billing Representative	48.16
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Utility Financial Analyst	111.46
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Utility Services Assistant	62.90
680: Wastewater Fund	Wastewater Fund- Wastewater Coll.Sys.Supv	99.34
680: Wastewater Fund	Wastewater Fund- Wastewater Collect.Syst.Tech.	75.36
660: Water Fund	Water Fund- Office Specialist	42.02
660: Water Fund	Water Fund- Public Works Director	154.67
660: Water Fund	Water Fund- Senior Civil Engineer	80.74
660: Water Fund	Water Fund- Water Crew Leader	67.41
660: Water Fund	Water Fund- Water Crew Supervisor	72.64
660: Water Fund	Water Fund- Water Production Operator II	68.54
660: Water Fund	Water Fund- Water Services Float	34.20
660: Water Fund	Water Fund- Water Services Worker	49.72
660: Water Fund	Water Fund- Water/Wastewater Superintendent	106.96
670: Electric Fund	Electric Fund- Associate Electrical Engineer	109.74
670: Electric Fund	Electric Fund- Electric Meter Test Technician	108.55
670: Electric Fund	Electric Fund- Electric Operations Manager	130.27
670: Electric Fund	Electric Fund- Electric Service Planner	113.43
670: Electric Fund	Electric Fund- Electric Services Worker	34.30
670: Electric Fund	Electric Fund- Electric Utility Director	193.50
670: Electric Fund	Electric Fund- Management Analyst	74.16
670: Electric Fund	Electric Fund- Powerline Apprentice I	84.55
670: Electric Fund	Electric Fund- Powerline Crew Supervisor	118.94
670: Electric Fund	Electric Fund- Powerline Technician	108.72
670: Electric Fund	Electric Fund- Pwr Resources & Rev Administra	109.45
670: Electric Fund	Electric Fund- Sr.Electric Service Planner	118.85
670: Electric Fund	Electric Fund- Substation Test Technician	108.71
670: Electric Fund	Electric Fund- Utility Engineering Svcs Asst	60.86
670: Electric Fund	Electric Fund- Warehouse Services Specialist	66.27

## APPENDIX C – COST RECOVERY ANALYSIS

The following tables provide the results of the analysis, resulting full cost recovery amount, and recommended fees. For fees in which the full cost, existing fee and suggested fee is listed as “NA”, the amount or percentage was not calculable based on cost data or variable fee structure. This is most common when either the current or the suggested fee includes a variable component that is not comparable on a one to one basis, a full cost was not calculated (for penalties and fines), or when there is not a current fee amount to compare against.

# Finance and Administration

#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Document Printing Fees - Black & White	\$0.25	per copy		Reso. 2007-117
2	Document Printing Fees - Color	\$0.35	per copy		Reso. 2007-117
3	Photocopying of Documents - Black & White	\$0.25	per copy		Reso. 2007-117
4	Photocopying of Documents - Color	\$0.35	per copy		Reso. 2007-117
5	Bound Document Fees	\$1 plus Applicable per page charge		\$1.00 for binding materials	Reso. 2007-117
6	Photocopy Fees - Oversized (maps)	Actual Cost		Free if examined at City Hall. Free for Council, Affected Commissioners, Dept. Heads and Press. Free for Council Candidates two months prior to election	Reso. 2007-117
7	Providing Agendas, Minutes, Packet, etc.	\$0.25 plus postage if mailed	per page		Reso. 2007-117
8	Document Certification	\$0.25	per page		Reso. 2007-117
9	Copy of Budget - Other Than	\$0.25 plus postage if mailed		Regulatory Bodies, etc.	Reso. 2007-117
10	Copy of Audit Report - Other	\$0.25 plus postage if mailed		Than Regulatory Bodies, etc.	Reso. 2007-117
11	Return Check Processing	\$25.00		1st returned check	Reso. 2007-117
12	Return Check Processing	\$35.00		2nd returned check	Reso. 2007-117
13	Cassette Tape of Meeting, etc.	\$9.00	per cassette		Reso. 2007-117
14	DVD of any live broadcast	\$7.00	per DVD		Reso. 2007-117

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$0.25	NA	\$0.25	\$0
\$0.35	NA	\$0.35	\$0
\$0.25	NA	\$0.25	\$0
\$0.35	NA	\$0.35	\$0
Variable	NA	\$1 plus Applicable per page charge	\$0
Variable	NA	Actual Cost	NA
\$0.25	NA	\$0.25 plus postage if mailed	\$0
\$0.25	NA	\$0.25	\$0
\$0.25	NA	\$0.25 plus postage if mailed	\$0
NA	NA	\$25.00	\$0
NA	NA	\$35.00	\$0
\$9.00	NA	\$9.00	\$0
\$7.00	NA	\$7.00	\$0



# Animal Control

Dog License				
#	Description	Current Fee/Charge	Resolution/ Ordinance	
1a	Unaltered 1 yr	\$50.00	Reso. 2007-117	
1b	Altered 1 yr	\$8.00	Reso. 2007-117	
2a	Unaltered 2 yr	\$100.00	Reso. 2007-117	
2b	Altered 2 yr	\$15.00	Reso. 2007-117	
3a	Unaltered 3 yr	\$150.00	Reso. 2007-117	
3b	Altered 3 yr	\$19.00	Reso. 2007-117	
4	Altered 1 yr. - Sr. citizen	\$6.00	Reso. 2007-117	
5	Altered 2 yr. - Sr. citizen	\$7.00	Reso. 2007-117	
6	Altered 3 yr. - Sr. citizen	\$8.00	Reso. 2007-117	
7	Late Fee - new dog license	\$20.00	Reso. 2007-117	
8	Late Fee - renewal of dog license	\$20.00	Reso. 2007-117	
9	Late Fee - renewal of dog license - Sr. Citizen	\$15.00	Reso. 2007-117	
10	Transfer of ownership fee	\$6.00	Reso. 2007-117	
11	License replacement fee	\$6.00	Reso. 2007-117	

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$50.00	\$0
NA	NA	\$8.00	\$0
NA	NA	\$100.00	\$0
NA	NA	\$15.00	\$0
NA	NA	\$150.00	\$0
NA	NA	\$19.00	\$0
NA	NA	\$6.00	\$0
NA	NA	\$7.00	\$0
NA	NA	\$8.00	\$0
NA	NA	\$20.00	\$0
NA	NA	\$20.00	\$0
NA	NA	\$15.00	\$0
NA	NA	\$6.00	\$0
NA	NA	\$6.00	\$0

Impound Fees			
#	Description	Current Fee/Charge	Resolution/ Ordinance
1	Dog -1st Offense w/in 1 year	\$30.00	Reso. 2007-117
2	- 2nd Offense w/in 1 year	\$50.00	Reso. 2007-117
3	- 3rd Offense w/in 1 year	\$75.00	Reso. 2007-117
4	Cat -1st Offense w/in 1 year	\$30.00	Reso. 2007-117
5	- 2nd Offense w/in 1 year	\$50.00	Reso. 2007-117
6	- 3rd Offense w/in 1 year	\$75.00	Reso. 2007-117
7	Small animals**	\$20.00	Reso. 2007-117
8	Medium Animals**	\$20.00	Reso. 2007-117
9	Large Animals**	\$20.00	Reso. 2007-117

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$30.00	\$0
NA	NA	\$50.00	\$0
NA	NA	\$75.00	\$0
NA	NA	\$30.00	\$0
NA	NA	\$50.00	\$0
NA	NA	\$75.00	\$0
NA	NA	\$20.00	\$0
NA	NA	\$20.00	\$0
NA	NA	\$20.00	\$0

Maintenance Fees (food/care per day)			
#	Description	Current Fee/Charge	Resolution/ Ordinance
1	Dog	\$7.00	Reso. 2007-117
2	Cat	\$7.00	Reso. 2007-117
3	Small animals**	\$1.00	Reso. 2007-117
4	Medium Animals**	\$5.00	Reso. 2007-117
5	Large Animals**	\$5.00	Reso. 2007-117

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$7.00	\$0
NA	NA	\$7.00	\$0
NA	NA	\$1.00	\$0
NA	NA	\$5.00	\$0
NA	NA	\$5.00	\$0

Adoption Fees			
#	Description	Current Fee/Charge	Resolution/ Ordinance
1	Dog	\$20.00	Reso. 2007-117
2	Cat	\$20.00	Reso. 2007-117

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$20.00	\$0
NA	NA	\$20.00	\$0



# Animal Control

3	Other	\$20.00	Reso. 2007-117
4	Dog - Sr. Citizen	\$20.00	Reso. 2007-117
5	Cat - Sr. Citizen	\$20.00	Reso. 2007-117

NA	NA	\$20.00	\$0
NA	NA	\$20.00	\$0
NA	NA	\$20.00	\$0

Vaccination Fees			
#	Description	Current Fee/Charge	Resolution/ Ordinance
1	Rabies	\$6.00	Reso. 2007-117
2	DHLPP	\$9.00	Reso. 2007-117
3	Bordetella	\$6.00	Reso. 2007-117
4	FVRCP	\$7.00	Reso. 2007-117
5	Drontel/Marquis Paste	\$10.00	Reso. 2007-117
6	Frontline	\$8.00	Reso. 2007-117

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$6.00	\$0
NA	NA	\$9.00	\$0
NA	NA	\$6.00	\$0
NA	NA	\$7.00	\$0
NA	NA	\$10.00	\$0
NA	NA	\$8.00	\$0

Spay/Neuter Fees			
#	Description	Current Fee/Charge	Resolution/ Ordinance
1	Dog - up to 20 lbs. - female	\$32.00	Reso. 2007-117
2	Dog - up to 20 lbs. - male	\$25.00	Reso. 2007-117
3	Dog - 21 - 40 lbs. - female	\$27.50	Reso. 2007-117
4	Dog - 21 - 40 lbs. - male	\$43.50	Reso. 2007-117
5	Dog - 41 - 60 lbs. - female	\$49.50	Reso. 2007-117
6	Dog - 41 - 60 lbs. - male	\$31.00	Reso. 2007-117
7	Dog - 61 - 80 lbs. - female	\$56.50	Reso. 2007-117
8	Dog - 61 - 80 lbs. - male	\$43.50	Reso. 2007-117

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$32.00	\$0
NA	NA	\$25.00	\$0
NA	NA	\$27.50	\$0
NA	NA	\$43.50	\$0
NA	NA	\$49.50	\$0
NA	NA	\$31.00	\$0
NA	NA	\$56.50	\$0
NA	NA	\$43.50	\$0

Other Miscellaneous Fees			
#	Description	Current Fee/Charge	Resolution/ Ordinance
1	Animal redemption fee	\$20.00	Reso. 2007-117
2	Microchip Fee at adoption	\$10.00	Reso. 2007-117
3	Microchip Fee not at adoption	\$15.00	Reso. 2007-117
4	Owner requested euthanasia	\$10.00	Reso. 2007-117
5	Various other fees as needed	Riverside County fee schedule	Reso. 2007-117

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$20.00	\$0
NA	NA	\$10.00	\$0
NA	NA	\$15.00	\$0
NA	NA	\$10.00	\$0
NA	NA	Riverside County fee schedule	NA

## Notes

\*\* Small animals (rabbit, chicken, etc.)  
Medium Animals (goat, sheep, calf, pig, etc.)  
Large Animals (horses, cows, etc.)

Community Services Department

Municipal Pool					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Admissions				
1a	Open swim sessions Adults	\$2.50	per person		
1b	Open swim sessions Children/Seniors	\$1.50	per person		
2	Lessons				
2a	Resident	\$40.00	per person		
2b	Non-Resident	\$45.00	per person		
3	Private Rentals	\$110.00	per hour/ 2 hour minimum		
4	Cabana Rentals (during open swim)	\$60.00	Per Reservation		

Activities					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Youth Flag Football, Basketball & Soccer	\$30.00			
2	Day Camp	\$50.00	per child/per week		
3	Contract Class Fees	\$20.00 - \$50.00	monthly	Fees set by instructor	
4	Contract Class Fees	\$3.00 - \$5.00	per class	Fees set by instructor	
5	Adult Sport Leagues - Softball	\$300.00	per team		
6	Adult Sport Leagues - Basketball	\$125.00	per team		

Community Center Rental					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Private Rates				
1a	Gymnasium	\$120.00			
1b	Large Mtg Room	\$60.00			
1c	Small Mtg Room	\$60.00			
1d	Kitchen & Gym	\$300.00			
2	Non-Profit Rates				
2a	Gymnasium	\$60.00			
2b	Large Mtg Room	\$30.00			
2c	Small Mtg Room	\$30.00			
2d	Kitchen & Gym	\$175.00			

Senior Center Rental					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Private Rates				
1a	Nutrition Site	\$85.00			
1b	Multi-Purpose Room	\$85.00			
2	Non-Profit Rates				
2a	Nutrition Site	\$45.00			
2b	Multi-Purpose Room	\$45.00			

Operation Cost	Subsidy %	Suggested Fee	Fee Δ
\$4.70	36%	\$3.00	\$0.50
\$2.35	36%	\$1.50	\$0.00
\$46.97	4%	\$45.00	\$5.00
\$50.00	0%	\$50.00	\$5.00
\$161.80	0%	\$161.00	\$51.00
\$209.52	67%	\$69.00	\$9.00

Operation Cost	Subsidy %	Suggested Fee	Fee Δ
\$40.05	0%	\$40.00	\$10.00
\$76.90	22%	\$60.00	\$10.00
\$107.36	0%	\$20.00 - \$50.00	\$0.00
\$107.36	0%	\$3.00 - \$5.00	\$0.00
\$366.93	5%	\$350.00	\$50.00
\$291.93	51%	\$143.00	\$18.00

Operation Cost	Subsidy %	Suggested Fee	Fee Δ
\$201.49	31%	\$140.00	\$20.00
\$82.03	15%	\$70.00	\$10.00
\$68.79	13%	\$60.00	\$0.00
\$329.46	0%	\$329.00	\$29.00
\$201.49	65%	\$70.00	\$10.00
\$82.03	57%	\$35.00	\$5.00
\$68.79	49%	\$35.00	\$5.00
\$329.46	39%	\$200.00	\$25.00

Operation Cost	Subsidy %	Suggested Fee	Fee Δ
\$108.51	8%	\$100.00	\$15.00
\$92.03	2%	\$90.00	\$5.00
\$108.51	49%	\$55.00	\$10.00
\$82.03	33%	\$55.00	\$10.00



Community Services Department

Parks Facilities					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
<b>Private Rates</b>					
1	Park Picnic Shelter				
1a	Ballfield	\$25.00			
1b	Ballfield Lights - 2 hour minimum	\$25.00			
1c	Dysart Park	\$15.00	per hour		
1e	Amphitheater & Stage	\$120.00			
1f		\$35.00			
<b>Non-Profit Rates</b>					
2	Park Picnic Shelter	\$25.00			
2a	Ballfield	\$25.00			
2b	Ballfield Lights - 2 hour minimum	\$15.00	per hour		
2c	Dysart Park	\$120.00			
2e	Amphitheater & Stage	\$30.00			
2f					

Staffing Fees					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Monday - Thursday 8:00am - 9:00pm	\$12.00	per hour		
2	Monday - Thursday after 5pm, Fri, Sat, Sun and City Holidays	\$21.00	per hour		

Operation Cost	Subsidy %	Suggested Fee	Fee Δ
\$43.52	31%	\$30.00	\$5.00
\$33.52	10%	\$30.00	\$5.00
\$61.61	72%	\$17.00	\$2.00
\$145.66	0%	\$145.00	\$25.00
\$45.01	0%	\$45.00	\$10.00
\$43.52	31%	\$30.00	\$5.00
\$30.01	0%	\$30.00	\$5.00
\$61.61	72%	\$17.00	\$2.00
\$145.66	0%	\$145.00	\$25.00
\$43.52	1%	\$43.00	\$13.00

Operation Cost	Subsidy %	Suggested Fee	Fee Δ
\$20.00	35%	\$13.00	\$1.00
\$27.15	1%	\$27.00	\$6.00





# Building Department Fees

Fees					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Change of Occupancy	\$176.00			Reso. 2006-114
2	Research	\$88.00	first 1/2 hour		Reso. 2006-114
3	Air handling/ heating or cooling unit replacement	New			
4	Additional plan review	New			
5	Additional plan review- Engineering	New			
6	Awning/ canopy (supported by building)	New			
7	Balcony/ deck	New	each		
8	Balcony/ deck railing repair	New			
9	Carport- custom	New	each		
10	Carport- ICC, IAPMO, handout	New	each		
11	Cell tower- modifications	New			
12	Cell tower- new	New	each		
13	Change of occupancy	New			
14	Demolition of building	New	each building		
15	Electric panel replacement	New			
16	Exterior wall covering replacement (up to 400 s.f.)	New			
17	Fireplace- custom	New	each		
18	Fireplace- pre-fabricated with engineering	New	each		
19	Flag pole (over 20' in height)	New	each		
20	Grease trap/ interceptor	New			
21	Hood- other than Type 1 (including ducts)	New	each		
22	Hood- Type 1 (includes exhaust system)	New			
23	Inspection fee- hourly	New			
24	Job card- replace/ duplicate	New			
25	Lighting pole (up to 6)	New			
26	Lighting pole (up to 6 additional)	New			
27	Manufactured home- installation on private property	New	each		
28	Modular unit- installation on private property	New	each		
29	Patio cover- custom	New	each		
30	Patio cover- metal, ICC, IAPMO	New	each		
31	Patio cover- wood, ICC, IAPMO or handout	New	each		
32	Patio enclosure	New	each		
33	Plan check	New			
34	Plan check- Engineer	New			
35	Pool/spa- commercial	New	each		
36	Pool/spa- residential custom	New	each		
37	Pool/spa- residential fiberglass/ vinyl-lined	New	each		

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$254.02	0%	\$254.00	\$78
\$230.83	43%	\$132.00	\$44
\$192.50	0%	\$192.00	NA
\$161.67	0%	\$161.00	NA
\$291.67	0%	\$291.00	NA
\$250.68	0%	\$250.00	NA
\$490.68	0%	\$490.00	NA
\$296.52	0%	\$296.00	NA
\$944.02	0%	\$944.00	NA
\$490.68	0%	\$490.00	NA
\$400.53	0%	\$400.00	NA
\$1,418.03	0%	\$1,418.00	NA
\$417.35	0%	\$417.00	NA
\$408.18	0%	\$408.00	NA
\$192.50	0%	\$192.00	NA
\$421.67	0%	\$421.00	NA
\$583.33	0%	\$583.00	NA
\$548.33	0%	\$548.00	NA
\$644.85	0%	\$644.00	NA
\$330.00	0%	\$330.00	NA
\$491.67	0%	\$491.00	NA
\$629.17	0%	\$629.00	NA
\$183.33	0%	\$183.00	NA
\$55.00	0%	\$55.00	NA
\$783.33	0%	\$783.00	NA
\$172.50	0%	\$172.00	NA
\$538.03	0%	\$538.00	NA
\$658.87	0%	\$658.00	NA
\$514.85	0%	\$514.00	NA
\$256.10	0%	\$256.00	NA
\$514.85	0%	\$514.00	NA
\$560.68	0%	\$560.00	NA
\$161.67	0%	\$161.00	NA
\$291.67	0%	\$291.00	NA
\$1,192.35	0%	\$1,192.00	NA
\$844.85	0%	\$844.00	NA
\$571.52	0%	\$570.00	NA

## Building Department Fees

38	Pool/spa- residential gunnite	New			
39	Re-inspection	New			
40	Re-roof- commercial (for each 3,000 s.f.)	New			
41	Re-roof- multifamily (for each 3,000 s.f.)	New			
42	Re-roof- SFD	New	each building		
43	Research- hourly	New	hourly		
44	Residential bathroom remodel- no structural/wall changes	New			
45	Residential kitchen remodel- no structural/wall changes	New			
46	Retrofit foundation for a modular or mobil unit	New			
47	Sales office- conversion to residential or garage use	New	each		
48	Septic tank	New	each		
49	Sign- monument	New	each		
50	Sign- pole/ billboard	New			
51	Sign- wall	New			
52	Site investigation	New			
53	Solar- commercial (each additional kw)	New			
54	Solar- commercial (up to 4 kw)	New			
55	Solar- ground mount	New			
56	Solar- residential rooftop (more than 10 kw)	New	each		
57	Solar- residential rooftop (up to 10 kw)	New			
58	Solar- residential water heater	New			
59	Special Inspector application	New			
60	Stairs- each flight	New			
61	Storage racks (each 100 L.F.)	New			
62	Temporary construction or sales trailer	New			
63	Temporary electrical service	New			
64	Temporary electrical service (each additional pole)	New			
65	Utility release	New			
66	Walk-in tub	New			
67	Wall- combo (each 300 L.F.)	New			
68	Wall- freestanding (each 300 L.F.)	New			
69	Wall- plaster	New			
70	Wall- retaining- custom (each 50 L.F.)	New			
71	Wall- retaining- handout (each 50 L.F.)	New			
72	Water heater replacement	New			
73	Water/gas piping- installation, alteration or repair	New	each		
74	Window/door replacement- residential, no changes to framing	New	each		

\$709.02	0%	\$709.00	NA
\$110.00	0%	\$110.00	NA
\$330.00	0%	\$330.00	NA
\$330.00	0%	\$330.00	NA
\$330.00	0%	\$330.00	NA
\$110.00	0%	\$110.00	NA
\$410.83	0%	\$410.00	NA
\$434.02	0%	\$434.00	NA
\$215.68	0%	\$215.00	NA
\$215.68	0%	\$215.00	NA
\$353.18	0%	\$353.00	NA
\$676.67	0%	\$676.00	NA
\$868.87	0%	\$868.00	NA
\$279.28	0%	\$279.00	NA
\$444.85	0%	\$444.00	NA
\$198.33	0%	\$198.00	NA
\$382.77	0%	\$382.00	NA
\$790.68	0%	\$790.00	NA
\$595.68	0%	\$595.00	NA
\$423.18	0%	\$423.00	NA
\$403.18	0%	\$403.00	NA
\$55.00	0%	\$55.00	NA
\$354.17	0%	\$354.00	NA
\$260.00	0%	\$260.00	NA
\$247.50	0%	\$247.00	NA
\$261.52	0%	\$261.00	NA
\$183.33	2%	\$180.00	NA
\$192.50	0%	\$192.00	NA
\$330.00	0%	\$330.00	NA
\$513.33	0%	\$513.00	NA
\$536.52	0%	\$536.00	NA
\$536.52	0%	\$536.00	NA
\$894.02	0%	\$894.00	NA
\$444.85	0%	\$444.00	NA
\$215.68	0%	\$215.00	NA
\$475.83	0%	\$475.00	NA
\$410.83	0%	\$410.00	NA



UBC Class	UBC Occupancy	Square Footage	Old Construction Fee Schedule	New Construction Fee Schedule - 100% Cost Recovery
Commercial- New	1,001 5,001 10,001 20,001 50,001 100,001	1,826.00 plus 2,838.00 plus 3,939.00 plus 4,684.00 plus 5,945.00 plus 11,100.00 plus	25.31 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 5,000 s.f.	32.29 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 5,000 s.f.
			22.02 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 10,000 s.f.	37.05 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 10,000 s.f.
			7.45 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 20,000 s.f.	25.18 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 20,000 s.f.
			7.54 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 50,000 s.f.	10.92 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 50,000 s.f.
			8.31 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 100,000 s.f.	7.52 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 100,000 s.f.
Tenant Improvements	1 801 1,251 2,501 5,001 12,501	1,151.00 plus 1,782.00 plus 2,471.00 plus 2,926.00 plus 4,375.00 plus 6,950.00 plus	15.77 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 800 s.f.	10.04 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 800 s.f.
			13.78 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,250 s.f.	57.08 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,250 s.f.
			4.55 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 2,500 s.f.	107.28 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 2,500 s.f.
			4.83 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 5,000 s.f.	66.76 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 5,000 s.f.
			5.15 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 12,500 s.f.	32.36 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 12,500 s.f.
Industrial - New	1,001 5,001 10,001 20,001 50,001 100,001	1,555.00 plus 2,464.00 plus 3,432.00 plus 4,126.00 plus 5,985.00 plus 9,750.00 plus	22.47 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 5,000 s.f.	15.26 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 5,000 s.f.
			19.36 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 10,000 s.f.	21.20 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 10,000 s.f.
			6.94 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 20,000 s.f.	24.01 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 20,000 s.f.
			6.20 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 50,000 s.f.	15.66 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 50,000 s.f.
			7.53 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 100,000 s.f.	5.11 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 100,000 s.f.
Residential- New (single or multi family per dwelling unit)	1 801 1,201 2,001 3,001 4,001 6,001 10,001	n.a. plus n.a. plus n.a. plus n.a. plus n.a. plus n.a. plus n.a. plus	n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 800 s.f.	6.62 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 800 s.f.
			n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,200 s.f.	21.20 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,200 s.f.
			n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 2,000 s.f.	24.01 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 2,000 s.f.
			n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 3,000 s.f.	15.66 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 3,000 s.f.
			n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 4,000 s.f.	5.11 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 4,000 s.f.
Residential- Addition (single or multi family)	1 301 501 801 1,501 2,001	1,320.00 plus 2,046.00 plus 2,838.00 plus 3,365.00 plus 5,016.00 plus 7,985.00 plus	90.73 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 300 s.f.	37.42 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 300 s.f.
			79.21 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 500 s.f.	21.80 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 500 s.f.
			26.39 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 800 s.f.	121.77 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 800 s.f.
			27.51 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,500 s.f.	76.42 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,500 s.f.
			29.70 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 2,000 s.f.	109.60 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 2,000 s.f.
Residential- Remodel (single or multi family)	1 301 501 801 1,501 2,001	1,109.00 plus 1,676.00 plus 2,310.00 plus 2,679.00 plus 4,170.00 plus 5,402.00 plus	70.95 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 300 s.f.	147.35 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 300 s.f.
			63.35 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 500 s.f.	21.75 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 500 s.f.
			18.47 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 800 s.f.	143.52 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 800 s.f.
			24.85 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,500 s.f.	47.84 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,500 s.f.
			22.32 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 2,000 s.f.	15.67 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 2,000 s.f.
Shell Buildings	1 1,001 5,001 10,001 20,001 50,001	886.00 plus 1,255.00 plus 1,742.00 plus 2,074.00 plus 3,065.00 plus 4,920.00 plus	11.21 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,000 s.f.	35.53 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,000 s.f.
			9.75 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 5,000 s.f.	13.37 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 5,000 s.f.
			3.32 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 10,000 s.f.	16.27 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 10,000 s.f.
			3.30 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 20,000 s.f.	8.74 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 20,000 s.f.
			3.71 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 50,000 s.f.	3.83 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 50,000 s.f.
Garage/ Storage/ Workshop	1 401 601 1,001 1,501 20,001	n.a. plus n.a. plus n.a. plus n.a. plus n.a. plus n.a. plus	n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 400 s.f.	5.08 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 400 s.f.
			n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 600 s.f.	29.36 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 600 s.f.
			n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,000 s.f.	71.76 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,000 s.f.
			n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,500 s.f.	39.14 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 1,500 s.f.
			n.a. for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 20,000 s.f.	33.92 for each additional 100 s.f. or fraction thereof > half of 100 s.f., to and including 20,000 s.f.



Planning Department

Planning Fees					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Adult Ent Zoning Permit	\$7,562.00			Reso. 2006-114
2	Annexation Fee	\$4,489.00			Reso. 2006-114
3	Appeal of PC Decision	\$7,155.00			Reso. 2006-114
4	Appeal of Planning Dept. Decision	\$4,942.00			Reso. 2006-114
5	Certificate of Completion/Lot Line Adj	\$1,086.00			Reso. 2006-114
6	Clarification of Ambiguity/Omission	\$1,723.00			Reso. 2006-114
7	Conditional Use Permit	\$4,779.00			Reso. 2006-114
8	Conditional Use Permit Amend	\$7,211.00			Reso. 2006-114
9	CUP - sexually oriented business	\$5,031.00			Reso. 2006-114
10	Design Review	\$4,904.00			Reso. 2006-114
11	Design Review Amend	New			
12	Development Agreements	\$8,352.00	Deposit		Reso. 2006-114
13	EIR-city Admin Charge	\$6,417 + consultant's fees	Deposit		Reso. 2006-114
14	Environmental - Mitigation Monitoring	New	Deposit		
15	Environmental Assessment - Exemption	New			Reso. 2006-114
16	Environmental Assessment - ND or MND	\$3,124.00			Reso. 2006-114
17	Environmental Filing Fee/ Environmental Fish and Game Fee	New			
18	Extension of Time, CUP or Design Review	New			
19	Final Parcel Map	\$4,379.00			Reso. 2006-114
20	Final Tract Map (51 + lots)	\$8,195.00		Plus 70/lot	
21	Final Tract Map (first 50 lot)	\$4,885.00			Reso. 2006-114
22	General Plan Amendment (Map)	\$6,192.00			Reso. 2006-114
23	General Plan Amendment (Text)	\$6,900.00			
24	Landscape - minor	\$884.00			Reso. 2006-114
25	Landscape review - major	\$2,030.00			Reso. 2006-114
26	Lot Line Adjustment	New			
27	Lot Merger	\$761.00			Reso. 2006-114
28	Marijuana Cultivation Permit	\$170.00			Reso. 2017-24
29	Minor develop plan review - SFD	\$890.00			Reso. 2006-114
30	Minor modification of an Application	\$2,465.00			Reso. 2006-114
31	Mural permit	\$1,310.00			Reso. 2006-114
32	Planning letters	\$55- \$80			Reso. 2006-114
33	Pre-App Review	New			Reso. 2006-114
34	Request for Public Hearing	\$1,802.00			
35	Sign Permit - Freestanding Sign	New			Reso. 2006-114
36	Sign Permit - Panel Change Only	New			Reso. 2006-114
37	Sign Review	\$537.00			
38	Site Plan Review	\$5,885.00			Reso. 2006-114
39	Specific Plan	\$9,863.00	Deposit		Reso. 2006-114
40	Specific Plan Amend	\$10,405.00	Deposit		Reso. 2006-114
41	Temp Signs	\$235.00			Reso. 2006-114

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$978.81	0%	\$978.00	-\$6,584
\$8,843.39	0%	\$8,843.00	\$4,354
\$2,161.09	0%	\$2,161.00	-\$4,994
\$3,830.66	0%	\$3,830.00	-\$1,112
\$1,963.86	0%	\$1,963.00	\$877
\$784.59	0%	\$784.00	-\$939
\$5,045.37	0%	\$5,045.00	\$266
\$4,702.19	0%	\$4,702.00	-\$2,509
\$2,640.85	0%	\$2,640.00	-\$2,391
\$6,209.10	0%	\$6,209.00	\$1,305
\$4,801.67	NA	\$4,801.00	NA
\$26,008.09	0%	\$26,008.00	\$17,656
\$13,226.57	0%	\$13,226.00	\$6,809
NA	NA	\$5,000.00	NA
\$278.55	NA	\$278.00	NA
\$8,488.59	0%	\$8,488.00	\$5,364
NA	NA	Actual Cost	NA
\$740.70	0%	\$740.00	NA
\$958.38	0%	\$958.00	-\$3,421
\$1,885.73	0%	\$1,885.00	-\$6,310
\$1,514.79	0%	\$1,514.00	-\$3,371
\$8,615.44	0%	\$8,615.00	\$2,423
\$7,117.30	0%	\$7,117.00	\$217
\$982.98	0%	\$982.00	\$98
\$1,075.72	0%	\$1,075.00	-\$955
\$849.82	NA	\$849.00	NA
\$725.71	0%	\$725.00	-\$36
\$826.72	0%	\$826.00	\$656
\$937.93	0%	\$937.00	\$47
\$1,338.99	0%	\$1,338.00	-\$1,127
\$697.32	0%	\$697.00	-\$613
\$166.96	1%	\$166.00	\$86
\$1,457.41	NA	No Charge	NA
\$2,233.23	0%	\$2,233.00	\$431
\$525.80	0%	\$525.00	NA
\$108.42	0%	\$108.00	NA
\$278.90	0%	\$278.00	-\$259
\$907.25	0%	\$907.00	-\$4,978
\$16,133.38	0%	\$16,133.00	\$6,270
\$11,656.67	0%	\$11,656.00	\$1,251
\$278.90	0%	\$278.00	\$43

Planning Department

Planning Fees					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
42	Temp use permit	\$1,001.00			Reso. 2006-114
43	Tentative Map Time Extension	\$4,258.00			Reso. 2006-114
44	Tentative Parcel Map	\$9,811.00			Reso. 2006-114
45	Tentative Tract Map	\$7,757.00	Deposit		Reso. 2006-114
46	Tentative Tract Map (50 lots or more)	New			
47	Tentative Tract Map Condition Monitoring	New	Deposit		
48	Variance	\$4,292.00			Reso. 2006-114
49	Zone Change	\$8,524.00			Reso. 2006-114
50	Zone Text Amend.	\$6,900.00			Reso. 2006-114

Note: For efforts above and beyond scope of original submittal, additional cost may apply.

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$1,113.12	0%	\$1,113.00	\$112
\$3,835.33	0%	\$3,835.00	-\$423
\$8,860.53	0%	\$8,860.00	-\$951
\$9,543.68	0%	\$9,543.00	\$1,786
\$10,030.99	0%	\$10,030.00	NA
NA	NA	\$5,000.00	NA
\$4,607.07	0%	\$4,607.00	\$315
\$7,525.02	0%	\$7,525.00	-\$999
\$7,557.33	0%	\$7,557.00	\$657



Customer Service/Utility Billing Department

Water Utility Fees					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Deposit	\$50.00	per 1,000 SF		
2	Service Fee	\$27.00	per 1,000 SF		
3	Same day turn on fee	\$43.00	per 1,000 SF		
4	Service fee	\$30.00	per 1,000 SF		
5	Water meter reinstall fee	\$95.00	per 1,000 SF		
6	After p.m. t/on fee	\$146.00	per 1,000 SF		
7	Construction water meter deposit (hydrant meter)	\$500.00	per 1,000 SF		
8	Diversion of service fee	\$250.00	per 1,000 SF	1st offense	
9	Diversion of service	\$500.00	per 1,000 SF	2nd offense	
10	Service charge - 5/8 meter	\$20.94	per 1,000 SF		Ord. 1428
11	Service charge - 3/4 meter	\$20.94	per 1,000 SF		Ord. 1428
12	Service charge - 1" meter	\$31.75	per 1,000 SF		Ord. 1428
13	0-12 HCF	\$1.84	per 1,000 SF		Ord. 1428
14	13-25 HCF	\$2.34	per 1,000 SF		Ord. 1428
15	26+ HCF	\$2.64	per unit		Ord. 1428

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$50.00	\$0.00
NA	NA	\$27.00	\$0.00
NA	NA	\$43.00	\$0.00
NA	NA	\$30.00	\$0
NA	NA	\$95.00	\$0
NA	NA	\$146.00	\$0
NA	NA	\$1,500.00	\$1,000
NA	NA	\$250.00	\$0
NA	NA	\$500.00	\$0
NA	NA	\$20.94	\$0
NA	NA	\$20.94	\$0
NA	NA	\$31.75	\$0
NA	NA	\$1.84	\$0
NA	NA	\$2.34	\$0
NA	NA	\$2.64	\$0

Sewer fees				
#	Description	Current Fee/Charge	Unit	Notes
1	Sewer deposit	\$30.00		
2	Sewer-1 edu	\$20.48		

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$30.00	\$0
NA	NA	\$20.48	\$0

Trash fees				
#	Description	Current Fee/Charge	Unit	Notes
1	Trash deposit	\$30.00		
2	Residential set up fee	\$10.81		
3	Commercial set up fee	\$18.03		
4	Industrial set up fee	\$18.03		

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$30.00	\$0
NA	NA	\$10.81	\$0
NA	NA	\$18.03	\$0
NA	NA	\$18.03	\$0

Miscellaneous Fees				
#	Description	Current Fee/Charge	Unit	Notes
1	Delinquent fee	\$13.50		
2	Returned check fee	\$25.00		
3	Returned check hanger fee	\$13.50		

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	\$13.50	\$0
NA	NA	\$25.00	\$0
NA	NA	\$13.50	\$0

Electric Utility Fees				
#	Description	Current Fee/Charge	Unit	Notes
1	Service Turn-on (standby/ after hours)	\$191.00		

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$296.48	4%	\$286.00	\$95



Customer Service/Utility Billing Department

2	Reconnection Charge (Additional) OH or UG service terminated by electric crew	\$265.00			
3	Reconnection Charge (Additional) Service Drop removed by electric crew	\$265.00			
4	Trespass/Diversion	\$250.00		1st Offense	
5	Trespass/Diversion	\$500.00		2nd Offense	
6	Customer Requested Electric Operations Service Call "Trip Charge"	New		Charge is assessed if an additional trip is required to complete the service call, due to customer oversight	
7	Non-remote meter read	New	per month		
8	Customer service fee	\$3.00			
9	Street lighting fee	\$2.00			
10	Residential Rates				
11	Bear baseline 308kwh-558kwh	\$0.10			
12	Baseline 308kw-558kwh	\$0.17			
13	Non-Baseline 1000kwh-1500kwh	\$0.29			
14	Commercial Rates	\$0.20			
15	Electric Deposit with Air				
16	1 bedroom	\$60.00			
17	2 bedroom	\$65.00			
18	3 bedroom	\$95.00			
19	4 bedroom	\$120.00			
20	5 bedroom	\$145.00			
21	Electric Deposit without Air				
22	1 bedroom	\$45.00			
23	2 bedroom	\$45.00			
24	3 bedroom	\$65.00			
25	4 bedroom	\$80.00			
26	5 bedroom	\$95.00			
27	Electric only residential accounts with Air				
28	1 bedroom	\$60.00			
29	2 bedroom	\$85.00			
30	3 bedroom	\$120.00			
31	4 bedroom	\$150.00			
32	5 bedroom	\$180.00			
33	Electric only residential accounts without Air				
34	1 bedroom	\$45.00			
35	2 bedroom	\$45.00			
36	3 bedroom	\$90.00			
37	4 bedroom	\$110.00			
38	5 bedroom	\$130.00			
39	Turn on Service fee (if scheduled)	\$27.00			
40	Turn on Service fee (same day)	\$43.00			
41	Electric reconnect fee	\$30.00			

\$558.83	29%	\$397.00	\$132
\$262.17	0%	\$262.00	-\$3
NA	NA	\$300.00	\$50
NA	NA	\$600.00	\$100
\$124.68	1%	\$124.00	NA
NA	NA	\$10.00	NA
NA	NA	\$3.00	0
NA	NA	\$2.00	0
NA	NA	\$0.10	0
NA	NA	\$0.17	0
NA	NA	\$0.29	0
NA	NA	\$0.20	0
NA	NA	\$60.00	0
NA	NA	\$65.00	0
NA	NA	\$95.00	0
NA	NA	\$120.00	0
NA	NA	\$145.00	0
NA	NA	\$45.00	0
NA	NA	\$45.00	0
NA	NA	\$65.00	0
NA	NA	\$80.00	0
NA	NA	\$95.00	0
NA	NA	\$60.00	0
NA	NA	\$85.00	0
NA	NA	\$120.00	0
NA	NA	\$150.00	0
NA	NA	\$180.00	0
NA	NA	\$45.00	0
NA	NA	\$45.00	0
NA	NA	\$90.00	0
NA	NA	\$110.00	0
NA	NA	\$130.00	0
NA	NA	\$27.00	0
NA	NA	\$43.00	0
NA	NA	\$30.00	0

Customer Service/Utility Billing Department

42	Electric reconnect fee (same day)	\$43.00			
43	Electric reconnect after hours	\$206.00			
44	Reconnect at pole	\$265.00			
45	Electric meter testing	\$89.00			
46	Temporary electric pole deposit	\$50.00			
47	Electric temporary pole service	\$89.00			
48	Diversion of service fee	\$250.00		1st offense	
49	Diversion of service	\$500.00		2nd offense	

NA	NA	\$43.00	0
NA	NA	\$206.00	0
NA	NA	\$265.00	0
NA	NA	\$89.00	0
NA	NA	\$50.00	0
NA	NA	\$89.00	0
NA	NA	\$250.00	0
NA	NA	\$500.00	0

## Utility

Electric Utility Fees					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Meter Test/2nd request within one year	\$89.00			
2	Meter Changeout - Customer Required (single phase)	\$113.00			
3	Meter Changeout (3 phase)	New			
4	Temporary OH Electric Service	\$176.00		Time & Materials	
5	Temporary UG Electric Service	\$176.00		Time & Materials	
6	Preliminary Electric Service Assessment Fee	New			
7	Extension or relocation of Distribution lines and or facilities (single phase)	New		Includes Engineering, Time & Materials	
8	Extension or relocation of Distribution lines and or facilities (3 phase)	New		Includes Engineering, Time & Materials	
9	Electric Line Extension for new development of less than 10 units	New		Time & Materials	
10	Electric Line Extension for new track development 10+ units	\$1,400.00	per unit	Includes single phase primary (size & length), single phase transformer (size), secondary cable (size & length), service cable (size & length) labor, equipment and inspections.	
11	Cable and equipment installed in developer supplied sub-structures	New		Time & Materials	
12	Solar Electric Utility application & plan check	New			
13	Customer Required Inspection Fee	New			
14	Customer Required Inspection Fee after 2nd review	New		due to customer non-compliance	
15	Additional Plan Check Fee after 2nd review	New		due to customer non-compliance	
16	Additional Solar Plan Check Fee after 2nd review	New		due to customer non-compliance	
17	Residential panel changeout up to 125 amp.	New		Includes 2 inspections, disconnect & reconnect. Time & Materials	
18	Residential panel changeout 200+ amps	New		Includes 2 inspections, disconnect & reconnect. Time & Materials	
19	Commercial service panel upgrade	New		Time & Materials	
20	Multi-unit dwelling new service or panel upgrade	New		Time & Materials	
21	Old Technology Meter installation	New		Time & Materials	

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$182.14	27%	\$133.00	\$44
\$307.14	45%	\$169.00	\$56
\$596.14	0%	\$596.00	NA
NA	NA	Actual Cost	NA
NA	NA	Actual Cost	NA
\$237.70	0%	\$237.00	NA
Variable	NA	Actual Cost	NA
Variable	NA	Actual Cost	NA
Variable	NA	Actual Cost	NA
\$1,700.00	0%	\$1,700.00	\$300
Variable	NA	Actual Cost	NA
\$135.94	1%	\$135.00	NA
\$153.36	0%	\$153.00	NA
\$198.56	0%	\$198.00	NA
\$118.85	1%	\$118.00	NA
\$60.86	1%	\$60.00	NA
Variable	NA	Actual Cost	NA
Variable	NA	Actual Cost	NA
Variable	NA	Actual Cost	NA
Variable	NA	Actual Cost	NA
NA	NA	\$75.00	NA



## Police

Rees	#	Description	Fee (Penalty/Late Fee)	Unit	Governing Code	Resolution/ Ordinance
	1	Prohibited Stopping or Parking at red curb	\$45.00*		13-21 BMC	Reso. 1993-110
	2	Prohibited Stopping or Parking	\$58.00*		13-22A BMC	Reso. 1993-110
	3	Parking not to Obstruct Traffic	\$58.00*		13-23 BMC	Reso. 1993-110
	4	All night and vehicle maintenance parking prohibited	\$50.00*/\$50.00		13-24 BMC	Reso. 1993-110
	5	Standing or Parking on one-way roadway	\$45.00*/\$45.00		13-25 BMC	Reso. 1993-110
	6	Parking on grades	\$45.00*/\$45.00		13-26 BMC	Reso. 1993-110
	7	Unlawful parking—peddlers, vendors	\$80.00*/\$80.00		13-27 BMC	Reso. 1993-110
	8	Temporary parking restrictions	\$45.00*/\$45.00		13-28 BMC	Reso. 1993-110
	9	Time limit parking zones — green curbs	\$58.00*		13-29 BMC	Reso. 1993-110
	10	Parking within space markings	\$45.00*/\$45.00		13-30 BMC	Reso. 1993-110
	11	Parking in freight and passenger loading zones—time limits	\$45.00*/\$45.00		13-32 BMC	Reso. 1993-110
	12	Stopping in Alley	\$58.00*		13-33 BMC	Reso. 1993-110
	13	Designated bus and taxicab zones	\$80.00*/\$80.00		13-34 BMC	Reso. 1993-110
	14	Restricted use of Bus and Taxicab zones	\$58.00*		13-35 BMC	Reso. 1993-110
	15	Trailer or semi-trailer parking prohibited	\$80.00*/\$80.00		13-39 BMC	Reso. 1993-110
	16	Commercial Parking in Business & Residential districts	\$80.00*/\$80.00		13-40 BMC	Reso. 1993-110
	17	Parking in excess of 72 hours	\$45.00*		10.12.045 BMC	Ordli. 1375
	18	Commercial vehicle— parking prohibited	\$113.00*		10.16.020 BMC	Ordli. 1390
	19	Vehicle parked transporting animals/nuisance	\$100.00*		10.16.020A1 BMC	Ordli. 1390
	20	Vehicle parked with hazardous substance within city	\$100.00*		10.16.020A2 BMC	Ordli. 1390
	21	Vehicle parked on road for repair	\$100.00*		10.16.020A3 BMC	Ordli. 1390
	22	Commercial vehicles over 10,000 lbs. parking in residential area	\$113.00*		10.16.020B1 BMC	Ordli. 1390
	23	Commercial vehicles over 10,000 lbs. parking on lot/unimproved	\$113.00*		10.16.020B2 BMC	Ordli. 1390
	24	Commercial vehicles over 10,000 lbs. parking within 100 ft of residential area	\$113.00*		10.16.020B3 BMC	Ordli. 1390
	25	Commercial vehicles over 10,000 lbs. parking within 150 ft of driveway opening	\$113.00*		10.16.020B4 BMC	Ordli. 1390
	26	Commercial vehicles over 10,000 lbs. parking in commercial property	\$113.00*		10.16.020B5 BMC	Ordli. 1390
	27	Commercial vehicles over 10,000 lbs. parking in non-residential property	\$113.00*		10.16.020B6 BMC	Ordli. 1390
	28	Commercial vehicles over 10,000 lbs. parking in alley	\$113.00*		10.16.020B7 BMC	Ordli. 1390
	29	Commercial vehicles over 10,000 lbs. parking adjacent to public facility	\$113.00*		10.16.020B8 BMC	Ordli. 1390
	30	Commercial vehicles over 10,000 lbs. unattached trailer	\$113.00*		10.16.020B9 BMC	Ordli. 1390
	31	Commercial vehicles over 10,000 lbs. idling over 15 minutes	\$113.00*		10.16.020C BMC	Ordli. 1390
	32	Unregistered vehicle	\$73.00*		4000A CVC	Reso. 1993-110
	33	Display of license plate	\$73.00*		5200 CVC	
	34	Improper Display of Tabs	\$30.00*		5204A CVC	Reso. 1993-110
	35	Unauthorized Parking on Public Grounds	\$35.00*		21113A CVC	Reso. 1993-110
	36	Stopping/Parking in Bicycle lane	\$35.00*		21211A CVC	Reso. 1993-110
	37	Parking within intersection	\$48.00*		22500A CVC	Reso. 1993-110
	38	Parking in Crosswalk	\$48.00*		22500B CVC	Reso. 1993-110
	39	Parking adjacent to Safety Zone	\$48.00*		22500C CVC	Reso. 1993-110
	40	Parking within 15 feet of Fire Station Driveway	\$48.00*		22500D CVC	Reso. 1993-110
	41	Parking blocking a driveway	\$48.00*		22500E CVC	Reso. 1993-110
	42	Parking on a sidewalk	\$48.00*		22500F CVC	Reso. 1993-110
	43	Parking blocking excavation	\$48.00*		22500G CVC	Reso. 1993-110
	44	Double Parking	\$48.00*		22500H CVC	Reso. 1993-110
	45	Parking in a posted bus zone	\$263.00*		22500I CVC	Reso. 1993-110
	46	Parking on a bridge	\$48.00*		22500K CVC	Reso. 1993-110
	47	Parking blocking wheelchair access	\$338.00*		22500L CVC	Reso. 1993-110

## Police

[illegible]



**Police**

48	Parking in posted Fire lane	\$80.00*		22500.1 CVC	Reso. 1993-110
49	Parking more than 18" from the curb	\$48.00*		22502A CVC	Reso. 1993-110
50	Posted no parking	\$35.00*		22505B CVC	
51	Parking in/Obstructing space designated for the disabled	\$338.00*		22507.8A CVC	Reso. 1993-110
52	Obstructing/blocking disabled space	\$338.00*		22507.8B CVC	
53	Parking on blue crosshatch	\$338.00*		22507.8C CVC	
54	Obstructing disabled parking space	\$338.00*		22507.8C1 CVC	
55	Obstructing disabled parking space	\$338.00*		22507.8C2 CVC	
56	Parking within 15' of Fire hydrant	\$35.00*		22514 CVC	Reso. 1993-110
57	Unattended vehicle	\$35.00*		22515B CVC	Reso. 1993-110
58	Locking person in vehicle	\$35.00*		22516 CVC	Reso. 1993-110
59	Parking within 7.5 feet of railroad track	\$35.00*		22521 CVC	Reso. 1993-110
60	Parking within 3' of a sidewalk access ramp	\$338.00*		22522 CVC	Reso. 1993-110
61	Abandoned vehicle	\$275.00*/\$50.00		22523 CVC	Reso. 1993-110

NA	NA	NA	\$80.00*	\$0
NA	NA	NA	\$48.00*	\$0
NA	NA	NA	\$35.00*	\$0
NA	NA	NA	\$338.00*	\$0
NA	NA	NA	\$338.00*	\$0
NA	NA	NA	\$338.00*	\$0
NA	NA	NA	\$338.00*	\$0
NA	NA	NA	\$338.00*	\$0
NA	NA	NA	\$35.00*	\$0
NA	NA	NA	\$35.00*	\$0
NA	NA	NA	\$35.00*	\$0
NA	NA	NA	\$35.00*	\$0
NA	NA	NA	\$338.00*	\$0
NA	NA	NA	\$275.00*/\$50.00	\$0

**Towing and Storage Services Fees**

#	Description	Current Fee/Charge	Unit	Notes	Authority
1	Base Towing Rate - Class A Tow Truck	\$130.00	per hour, 1 hr minimum		Reso. 2004-039
2	Heavy Duty Towing Rate - Class B Tow Truck	\$165.00	per hour, 1 hr minimum		Reso. 2004-039
3	Heavy Duty Towing Rate - Class C and D Tow Truck	\$250.00	per hour		Reso. 2004-039
4	Related Service	\$350.00	per hour for crane recovery		Reso. 2004-039
5	Lock Out (no towing required)	\$65.00			Reso. 2004-039
6	Lock Out (towing required)	No Charge			Reso. 2004-039
7	Daily	No Charge			Reso. 2004-039
8	After Hours Release Fee	\$65.00			Reso. 2004-039
9	<b>Storage</b>				
9a	Automobiles	\$30.00	per day, outside		Reso. 2004-039
9b	Automobiles	\$35.00	per day, inside		Reso. 2004-039
9c	Motorcycles	\$15.00	per day, outside		Reso. 2004-039
9d	Motorcycles	\$20.00	per day, inside		Reso. 2004-039
9e	Trucks, 1 ton under 20 ft.	\$40.00	per day		Reso. 2004-039
9f	Trucks, over 20 ft.	\$50.00	per day, per unit		Reso. 2004-039

Full Cost	Subsidy %	Fee Δ
NA	NA	\$130.00
NA	NA	\$165.00
NA	NA	\$250.00
NA	NA	\$350.00
NA	NA	\$65.00
NA	NA	No Charge
NA	NA	No Charge
NA	NA	\$65.00
NA	NA	\$30.00
NA	NA	\$35.00
NA	NA	\$15.00
NA	NA	\$20.00
NA	NA	\$40.00
NA	NA	\$50.00

**Miscellaneous**

#	Description	Current Fee/Charge	Unit	Notes	Authority
1	All Reports - Black & White	\$0.25	per copy		Reso. 2008-047
2	All Reports - Color	\$0.35	per copy		Reso. 2008-047
3	Report Request Form - Black & White	\$0.25	per copy		Reso. 2008-047
4	Report Request Form - Color	\$0.35	per copy		Reso. 2008-047
5	Special Events Charge (4 hr minimum)	\$65.00	per officer, per hour		Reso. 2007-117
6	Special Events Charge (4 hr minimum)	\$70.00	per corporal, per hour		Reso. 2007-117
7	Special Events Charge (4 hr minimum)	\$80.00	per sergeant, per hour		Reso. 2007-117
8	Special Events Charge (4 hr minimum)	New	per Lieutenant, per hour		Reso. 2007-117
9	Special Events Charge (4 hr minimum)	New	per Captain, per hour		Reso. 2007-117
10	DUI Investigation & Fine	\$110.00	per vehicle		Reso. 2007-117
11	DUI Enforcement Charge	Same as special events chg			Reso. 2007-117

Full Cost	Subsidy %	Fee Δ
NA	NA	\$0.25
NA	NA	\$0.35
NA	NA	\$0.25
NA	NA	\$0.35
\$102.84	5%	\$97.50
\$124.16	15%	\$105.00
\$130.37	8%	\$120.00
\$192.39	45%	\$105.00
\$180.72	31%	\$125.00
NA	NA	\$110.00
NA	NA	Same as special events chg

Police

12	DUI Recovery	New		Allowed under California Government Code Sections 53155, cannot exceed \$12,000		
13	K-9 Unit Service Charge	Same as special events chg				Reso. 2007-117
14	Public Dance Fee	Same as special events chg				Reso. 2007-117
15	Traffic Control Fee	Same as special events chg				Reso. 2007-117
16	Vehicle Storage Release	\$77.00	per vehicle			Reso. 2007-117
17	Vehicle Storage Release - 30 day	New	per vehicle			
18	False Alarm Response	none		1st response		Reso. 2007-117
19	False Alarm Response	none		2nd response		Reso. 2007-117
20	False Alarm Response	\$72.00		3rd response		Reso. 2007-117
21	False Alarm Response	\$144.00		4th response		Reso. 2007-117
22	False Alarm Response	\$144.00		5th + response		Reso. 2007-117
23	Clearance Letter Fee	\$25.00	per letter			Reso. 2007-117
24	Photo Sales Charges	\$10.00	per print			Reso. 2007-117
25	Bicycle Licenses	\$6.00	per licence			Reso. 2007-117
26	Fingerprint Fee	\$15.00	+ D.O.J. fees if applicable			Reso. 2007-117
27	Tape Duplication Fee	\$30.00	per tape			Reso. 2007-117
28	Civil Court Case Charge	Actual Salary Involved				Reso. 2007-117

Variable	NA	Actual Cost Up to \$12,000	NA
NA	NA	Same as special events chg	NA
NA	NA	Same as special events chg	NA
NA	NA	Same as special events chg	NA
NA	NA	\$115.50	\$39
NA	NA	\$115.50	NA
NA	NA	none	NA
NA	NA	none	NA
NA	NA	\$72.00	NA
NA	NA	\$144.00	NA
NA	NA	\$144.00	NA
\$27.70	10%	\$25.00	\$0
\$10.00	0%	\$10.00	\$0
NA	0%	\$5.00	-\$1
NA	NA	\$15.00	\$0
\$17.21	13%	\$15.00	-\$15
NA	NA	Actual Salary Involved	NA



# Fire Department

Plan Review/Inspection					
#	Description	Current Fee/Charge	Unit	Notes	Authority
1	Residential Plan Review/Inspection	\$134.00	per hour (1 hr. min.)		
2	Commercial/Industrial Plan Review/Inspection	\$134.00	per hour (1 hr. min.)		
3	Automatic Fire Extinguisher Plan Review/Inspection	\$134.00	per hr./person		
4	Fire Alarm Plan Review/Inspection	\$134.00	per hr./person		
5	Sprinkler System Plan Review/Inspection	\$134.00	per hr./person		

Fire Code Compliance Inspection					
#	Description	Current Fee/Charge	Unit	Notes	Authority
1	Annual State Mandated Inspection	\$134.00	per hr./person (1 hr. min.)		
2	Operational Permit Annual Inspection	New	per hour (1 hr. min.)		
3	New Business Fire Hazard Inspection	\$134.00	per hr./person (1 hr. min.)		
4	Engine Company Inspection				
5	Inspection	no fee			
6	1st Reinspection	no fee			
7	Subsequent reinspection	\$134.00	per hr./person		
8	Fire Suppression Cost Recovery	Actual Cost			
9	Fire Prevention Investigation	Covered by County Contract			
10	EMT Service, Non-resident	Covered by County Contract			
11	Care Facility serving 25 or fewer persons	\$50.00		Mandated by State	
12	Care Facility serving 26 or more persons	\$100.00		Mandated by State	
13	Hazardous Materials Record Location				
13.a	Category 1, Level 1a	\$268.00			
13.b	Category 1, Level 1b	\$335.00			
13.c	Category 2, Level 2a	\$268.00			
13.d	Category 2, Level 2b	\$335.00			
13.e	Category 3, Level 3a	\$402.00			
13.f	Category 3, Level 3b	\$469.00			
14	Hazardous Materials Response	Actual Cost			
15	Non Compliance Fee	New	per hour (1 hr. min.)		
16	Special Event fee	New	per hour (1 hr. min.)		
17	Special Event - Inspection Fee	New	per hour (1 hr. min.)		

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$233.02	14%	\$201.00	\$67
\$233.02	14%	\$201.00	\$67
\$233.02	14%	\$201.00	\$67
\$233.02	14%	\$201.00	\$67
\$233.02	14%	\$201.00	\$67

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$233.02	14%	\$201.00	\$67
\$233.02	14%	\$201.00	NA
\$233.02	14%	\$201.00	\$67
\$0.00	100%	\$0.00	\$0
\$0.00	100%	\$0.00	\$0
\$116.51	0%	\$116.00	-\$18
NA	NA	Actual Cost	NA
NA	NA	Covered by County Contract	NA
NA	NA	Covered by County Contract	NA
NA	NA	\$50.00	\$0
NA	NA	\$100.00	\$0
NA	NA	\$268.00	\$0
NA	NA	\$335.00	\$0
NA	NA	\$268.00	\$0
NA	NA	\$335.00	\$0
NA	NA	\$402.00	\$0
NA	NA	\$469.00	\$0
Variable	NA	Actual Cost	NA
\$116.51	0%	\$116.00	NA
\$116.51	0%	\$116.00	NA
\$116.51	0%	\$116.00	NA

# Engineering

Public Works Permit Fees					
#	Description	Current Fee/Charge	Unit	Notes	Resolution/ Ordinance
1	Issuance Fee	\$23.00			Reso. 2006-114
2	Curb & Gutter - <100 ft.	\$60.00		\$75 per every additional 100 feet	Reso. 2006-114
3	Sidewalk - <400 sq. ft	\$60.00		\$15 for every additional 100 square feet	Reso. 2006-114
4	Pavement - <1000 ft.	\$120.00		\$50 for each additional 1000 SF above first 1000SF	Reso. 2006-114
5	Driveway approach - Residential	\$60.00			Reso. 2006-114
6	Driveway approach - Commercial	\$81.00			Reso. 2006-114
7	Wheelchair Ramp	\$60.00			Reso. 2006-114
8	Cross gutter/spandrel	\$103.00			Reso. 2006-114
9	Sewer main, storm drain, water main <50 ft.	\$82.00			Reso. 2006-114
10	Sewer main, storm drain, water main >50 ft.	\$188.00	each 50	\$45 for each additional 50 LF above first 50 LF	Reso. 2006-114
11	Sewer lateral	\$60.00			Reso. 2006-114
12	Water service	\$60.00			Reso. 2006-114
13	Sewer manhole	\$81.00			Reso. 2006-114
14	Sewer Clean out	\$82.00			Reso. 2006-114
15	Water line Hot Tap	\$174.00		Includes the water main run in r/w	Reso. 2006-114
16	Storm Drain Inlet	\$189.00			Reso. 2006-114
17	Storm Drain Connector pipe	\$145.00			Reso. 2006-114
18	Parkway drain	\$81.00			Reso. 2006-114
19	Fire Hydrant	\$270.00			Reso. 2006-114
20	Air Vac blow off	\$103.00			Reso. 2006-114
21	Street Tree	\$60.00			Reso. 2006-114
22	Street name & traffic sign	\$60.00			Reso. 2006-114
23	Dye Test	\$104.00			Reso. 2006-114
24	Penalty for work w/o permit	\$244.00			Reso. 2006-114
25	Overtime Inspection	\$154.00			Reso. 2006-114
26	Re-Inspection Fee	1.5 x time spent			Reso. 2006-114

Excavation permit			
#	Description	Current Fee/Charge	Unit
1	Individual project (parallel to street)	\$189.00	
2	Individual project (across the street)	\$188.00	

Preliminary Project Review			
#	Description	Current Fee/Charge	Unit
1	Specific Plan - preliminary	\$3,871.00	
2	Specific Plan amendment - preliminary	\$2,540.00	
3	E.I.R - preliminary	\$2,862.00	
4	Drainage study	\$1,240.00	
5	WQMP Review Deposit	\$3,000.00	
6	Traffic study	\$2,504.00	
7	Tentative parcel map - preliminary	\$1,843.00	
8	Tentative tract map - preliminary	\$2,531.00	

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$10.51	5%	\$10.00	-\$13
\$77.19	0%	\$77.00	\$17
\$77.19	0%	\$77.00	\$17
\$121.23	0%	\$121.00	\$1
\$77.19	0%	\$77.00	\$17
\$99.21	0%	\$99.00	\$18
\$77.19	0%	\$77.00	\$17
\$110.35	0%	\$110.00	\$7
\$138.04	0%	\$138.00	\$56
\$231.83	0%	\$231.00	\$43
\$74.13	0%	\$74.00	\$14
\$74.13	0%	\$74.00	\$14
\$96.15	0%	\$96.00	\$15
\$162.21	0%	\$162.00	-\$12
\$187.29	0%	\$187.00	-\$2
\$143.25	0%	\$143.00	-\$2
\$99.21	0%	\$99.00	\$18
\$209.31	0%	\$209.00	-\$61
\$77.19	0%	\$77.00	\$17
\$33.15	0%	\$33.00	-\$27
\$113.04	0%	\$113.00	\$9
NA	NA	x 2 the permit fee	NA
\$176.16	0%	\$176.00	\$22
NA	NA	1.5 x time spent	NA

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$187.29	0%	\$187.00	-\$2
\$187.29	0%	\$187.00	-\$1

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$5,675.24	0%	\$5,675.00	\$1,804
\$2,341.45	0%	\$2,341.00	-\$199
\$2,101.35	0%	\$2,101.00	-\$761
\$2,098.60	11%	\$1,860.00	\$620
\$1,825.99	0%	\$1,825.00	-\$1,175
\$1,919.46	0%	\$1,919.00	-\$585
\$1,598.43	0%	\$1,598.00	-\$245
\$2,275.80	0%	\$2,275.00	-\$256



# Engineering

9	Tent map- (MH, RV)- preliminary	\$2,360.00			Reso. 2006-114
10	Tent Comm/Indus parcel >4 lots- preliminary	\$2,429.00			Reso. 2006-114
11	Site Plan	\$289.00			Reso. 2006-114
12	Plot Plan	\$289.00			Reso. 2006-114
13	Condominium - preliminary	\$1,023.00			Reso. 2006-114
14	Consultant service - preliminary	184.00 + consultant's fee		Deposit	Reso. 2006-114

\$2,275.80	0%	\$2,275.00	-\$85
\$2,053.12	0%	\$2,053.00	-\$376
\$259.41	0%	\$259.00	-\$30
\$259.41	0%	\$259.00	-\$30
\$829.27	0%	\$829.00	-\$194
NA	NA	Deposit amount variable	NA



## Engineering

Final Map Review				
#	Description	Current Fee/Charge	Unit	Resolution/ Ordinance
1	Final map - 0 - 50 lots	\$4,885.00		Reso. 2006-114
2	Final map -51 or more lots	\$8,159.00 +\$70.00 per lot	per add't lot over 50	Reso. 2006-114
3	Third check up-final	\$914.00		Reso. 2006-114
4	Certificate of Correction - final	\$836.00		Reso. 2006-114
5	Amend Map-final	\$932.00		Reso. 2006-114
6	Consultant service -final	\$183.00 + consultant's fee	Deposit	Reso. 2006-114

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$4,946.02	1%	\$4,915.00	\$30
\$90.11	0%	\$90.00	\$20
\$667.78	0%	\$667.00	-\$247
\$717.53	0%	\$717.00	-\$119
\$794.86	0%	\$794.00	-\$138
NA	NA	Deposit amount variable	NA

Grading				
#	Description	Current Fee/Charge	Unit	Resolution/ Ordinance
1	Rough grading 1-5 sheets	\$1,734.00		Reso. 2006-114
2	Rough grading 6-9 sheets	\$2,843.00		Reso. 2006-114
3	Rough grading 10-20 sheets	\$4,691.00		Reso. 2006-114
4	Rough grading per sheet above 20 sheets	New		
5	Precise Grading 0-49 lots	\$1,249.00		Reso. 2006-114
6	Precise Grading Per lot over 49 lots	New		
7	Grading/Stockpile Permit 51-100 CY	\$45.00		
8	Grading/Stockpile Permit 101-1,000 CY	\$45.00	Plus \$21 for every 100 cy or fraction thereof	
9	Grading/Stockpile Permit 1,001-10,000 CY	\$230.00	Plus \$25 for every 1,000 cy or fraction thereof	
10	Grading/Stockpile Permit 10,001-100,000 CY	\$380.00	Plus \$75 for every 10,000 cy or fraction thereof	
11	Grading/Stockpile Permit 100,001 or more CY	\$1,075.00	Plus \$85 for every 10,000 cy or fraction thereof	

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$1,820.57	0%	\$1,820.00	\$86
\$2,771.02	0%	\$2,771.00	-\$72
\$5,159.61	6%	\$4,830.00	\$139
\$335.72	9%	\$305.00	NA
\$1,854.57	12%	\$1,635.00	\$386
\$37.85	21%	\$30.00	NA
\$44.04	0%	\$44.00	-\$1
\$44.04	0%	\$44.00	-\$1
\$231.83	0%	\$231.00	\$1
\$391.78	0%	\$391.00	\$11
\$1,103.46	0%	\$1,103.00	\$28

Inspections				
#	Description	Current Fee/Charge	Unit	Resolution/ Ordinance
1	Inspections - Subdivision Developments	4% of est. constr. costs		Reso. 2006-114
2	Industrial Waste Inspection	\$175.00		Reso. 2006-114
3	NPDES Inspection	\$110.00		Reso. 2006-114

Full Cost	Subsidy %	Suggested Fee	Fee Δ
NA	NA	4% of est. constr. costs	NA
NA	NA	Consultant costs + 10%	NA
\$132.12	0%	\$132.00	\$22

Improvement Plan Review				
#	Description	Current Fee/Charge	Unit	Resolution/ Ordinance
1	P.C. Final Map - 1st Sheet	Variable	Per Sheet	
2	P.C. Final Map - Additional sheet	Variable	Each Add'l Sheet	

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$1,565.61	1%	\$1,550.00	NA
\$554.22	1%	\$550.00	NA

Miscellaneous Fees				
#	Description	Current Fee/Charge	Unit	Resolution/ Ordinance
1	Flood Zone Development	\$705.00		Reso. 2006-114
2	Encroachment permit	\$352.00		Reso. 2006-114
3	Over sized/weight permit (Caltrans Rate)	\$16.00		Reso. 2006-114
4	Reimbursement agreement	\$1,056.00		Reso. 2006-114
5	Dedication Document	\$224.00		Reso. 2006-114
6	Street Abandonment	\$435.00		Reso. 2006-114

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$863.55	0%	\$863.00	\$158
\$160.07	0%	\$160.00	-\$192
\$10.51	5%	\$10.00	-\$6
\$678.93	0%	\$678.00	-\$378
\$300.02	0%	\$300.00	\$76
\$953.68	32%	\$652.00	\$217

Engineering

7	Service Letter	\$63.00			Reso. 2006-114
8	Lot Line Adjustment	\$619.00			Reso. 2006-114
9	Lot Merger	\$619.00			Reso. 2006-114
10	Certificate of Compliance	\$653.00			Reso. 2006-114
11	Plan Storage & GIS Maintenance Fee	\$12.00	per sheet		Reso. 2006-114
12	24" x 36" or Smaller Printout	\$12.00	per sheet		Reso. 2006-114
13	24" x 36" or Smaller Printout	\$12.00	per sheet		Reso. 2006-114
14	Appeals to City Council or Planning Commission	\$543.00			Reso. 2006-114
15	Landscape Maintenance District - Annexation	\$3,986.00			Reso. 2006-114
16	Assessment/Mello Roos District Deposit	\$10,000 minimum			Reso. 2006-114
17	Improvement Plan Review: 1-5 Sheets	New			
18	Improvement Plan Review: 5-10 Sheets	New			
19	Improvement Plan Review: 10-20 Sheets	New			
20	Improvement Plan Review: 20+ Sheets	New			

\$79.04	0%	\$79.00	\$16
\$600.03	0%	\$600.00	-\$19
\$600.03	0%	\$600.00	-\$19
\$600.03	0%	\$600.00	-\$53
\$15.34	2%	\$15.00	\$3
\$16.30	2%	\$16.00	\$4
\$7.05	1%	\$7.00	-\$5
\$580.42	0%	\$580.00	\$37
NA	NA	\$3,986.00	NA
NA	NA	\$10,000 minimum	NA
\$892.26	NA	\$835.00	NA
\$2,613.39	NA	\$2,500.00	NA
\$4,118.23	NA	\$3,900.00	NA
\$6,217.22	NA	\$5,800.00	NA

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MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

10/23/2018  
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Moyer on October 23, 2018, at 4:30 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: Council Member Andrade

OTHERS PRESENT: Douglas Schulze, City Manager  
Rochelle Clayton, Deputy City Manager  
Kevin Ennis, City Attorney  
Sonja De La Fuente, Deputy City Clerk  
Tom Miller, Electric Utility Director  
Ted Shove, Economic Development Manager

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 REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8: Property description: APN 537-100-030 &B 031, located in the general vicinity of Ramsey Street and Highland Home Road. City Negotiators: Douglas Schulze, City Manager and Ted Shove, Economic Development Manager- Negotiating Parties: Jim Stuart [Group One Realty]: Under Negotiation: Price and Terms.
2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION pursuant to (Paragraph (1) of subdivision (d) of Section 54956.9). Name of Case: City of Banning and People of the State of California v. Supreme Cannabis Club, Tony Macias, and Maria Dolores Macias.
3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION pursuant to (Paragraph (1) of subdivision (d) of Section 54956.9). Name of

Case: City of Banning v. Go Green Calming Solutions, et al., Case No. RIC 1806731.

The Meeting convened to closed session at 4:31 p.m. and reconvened to open session at 4:50 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 4:50 p.m.

Minutes Prepared by:

\_\_\_\_\_  
Laurie Sampson, Acting Deputy City Clerk

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MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

10/23/18  
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Moyer on October 23, 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 (arrived at 5:50 P.M.)  
Council Member Franklin  
Council Member Peterson  
Council Member Welch  
Mayor Moyer

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Doug Schulze, City Manager  
Kevin Ennis, City Attorney  
Rochelle Clayton, Deputy City Manager  
Tim Chavez, Fire Battalion Chief  
Robert Fisher, Interim Police Chief  
Heidi Meraz, Community Services Director  
Tom Miller, Electric Utility Director  
Maryann Marks, Interim Community Development Director  
Art Vela, Public Works Director/City Engineer  
Mike Bennett, Police Sergeant  
Suzanne Cook, Deputy Finance Director  
Robert Meteau, Deputy Human Resources Director  
Ted Shove, Economic Development Manager  
Sonja De La Fuente, Deputy City Clerk  
Laurie Sampson, Executive Assistant  
Leila Lopez, Office Specialist

The Invocation was given by Reverend Bill Dunn with St. Stephen's Episcopal Church and Council Member Franklin led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

The City Attorney indicated three items were discussed in Closed Session. 1) CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8: Property description: APN: 537-100- 030 & 031, located in the general vicinity of Ramsey Street and Highland Home Road. City Negotiators: Doug Schulze, City Manager and Ted Shove, Economic Development Manager - Negotiating Parties: Jim Stuart [Group One Realty]: Under Negotiation: Price and Terms. Direction was given to the City's negotiators. 2) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to paragraph (1) of subdivision (d) of Section



54956.9. Name of case: City of Banning and People of the State of California v. Supreme Cannabis Club, Tony Macias, and Maria Dolores Macias. An update was provided regarding this case with no reportable action. 3) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of Subdivision (d) of Section 54956.9) Name of Case: City of Banning v. Go Green Calming Solutions, et al., Case No. RIC 1806731. An update was provided regarding this case with no reportable action.

## PUBLIC COMMENTS / CORRESPONDENCE / PRESENTATIONS / APPOINTMENTS

### PUBLIC COMMENTS

The Mayor opened Public Comment for items not on the Agenda.

Richard Rutherford expressed his concern about a claim or statement going unaddressed by council. He claims that a falsified environmental impact report was done on a property he once leased. The property is located on the northeast corner of Wilson Street and Highland Springs Road. The report reflects that there is no existence of horn toad lizards and burrowing owls. Mr. Rutherford states he knows this to be false. Mr. Rutherford asks that if there are no longer creatures there then to prove it but if creatures do exist then to modify the environmental impact report.

Ellen Carr with Tender Loving Critters (TLC) advised the Animal Action League (AAL) spayed and neutered approximately 62 cats or dogs last week. AAL will be in Banning on 11/13 and 11/14 to continue spay and neutering. Citizens may call AAL at 760-366-1100 to be put on a list for spay and neuter. Additionally, TLC received a donation from Sun Lakes Charitable Trust and has given a portion of that money to AAL to start a microchip initiative. Community member pays \$8 of the \$15 it costs to microchip their animal and TLC through AAL will pay the remainder \$7. Estimates this will allow for 285 cats or dogs to be microchipped. States it is important to microchip the animals as it allows the lost animal to find a way home. Now that the City is under the County for animal control, microchipping is mandatory for dogs.

Paul Perkins states several months ago there was a blockade put up on Highland Springs Road leading into the Albertson's grocery store parking lot. The blockade was put up by The City of Beaumont and is still there. Mr. Perkins states that it causes a big traffic jam and jeopardizes safety. He would like a status as to when it will be removed. He also requests, for that area, that striping be done on the Banning side of Highland Springs Road to ensure safety. Lastly, Mr. Perkins adds there was a complaint from the local gas station there that they are losing revenue due to the blockade.

Mayor Moyer responds with confirmation that City of Beaumont did put up the blockade. The City of Beaumont told The City of Banning and the public that they were going to conduct a traffic study and design a fix. Within the last 6 weeks an email was received from The City of Beaumont stating that they now decline to fix it and have put the responsibility on The City of Banning. The City of Banning has declined due to it being a street and traffic in the jurisdiction of Beaumont. A resolution is still being sought.



Seeing no further comments, the Mayor closed Public Comment.

### CORRESPONDENCE

There was no correspondence.

### PRESENTATIONS

None.

### APPOINTMENTS

1. Planning Commissioner Appointment

**Motion Franklin/Welch to approve the appointment of Scott Brosious to fill the vacated position on the Planning Commission until February 2019. Motion carried, 4-0, with Council Member Andrade absent.**

### CONSENT ITEMS

Item No. 8, Notice of Completion for Project No. 2016-04, Roosevelt Williams Park Improvements was pulled and continued to the next regular City Council meeting.

1. Minutes – Special Meeting – 10/9/18 (Closed Session)

Recommendation: Approve the Minutes from October 9, 2018, Special Meeting of the Banning City Council.

2. Minutes – Special Meeting – 10/9/18 (Regular Meeting)

Recommendation: Approve the Minutes from the October 9, 2018, Regular Meeting of the Banning City Council.

3. Accounts Payable and Payroll Warrants Issued in the Month of August 2018

Recommendation: Approval and Ratification

4. Accounts Payable and Payroll Warrants Issued in the Month of September 2018

Recommendation: Approval and Ratification

5. Investments and Reserve Report for the Month of August 2018

Recommendation: Receive and file.

6. Investments and Reserve Report for the Month of September 2018

Recommendation: Receive and File.

7. Public Works Capital Improvement Projects Update

Recommendation: Receive and File.

9. Notice of Completion for Emergency Mold Remediation at the Banning Police Station

Recommendation: Accept Emergency Mold Remediation at the Banning Police Station as Complete and Direct City Clerk to File for Recordation.

10. Ordinance 1534, an Ordinance of the City of Banning Regarding the Operation, Maintenance and Rate Setting Standards of the Banning Electric Utility, Amending the Banning Municipal Code, and Making a Finding of Exemption Under the California Environmental Quality Act

Recommendation: Ordinance 1534 Pass its 2<sup>nd</sup> Reading

The Mayor opened Consent Items 1, through 7, and 9 through 10 for public comment. Seeing none, closed public comment.

**Motion Peterson/Welch to approve Consent Items 1, through 7, and 9 through 10. Motion carried, 4-0, with Council Member Andrade Absent.**

### **PUBLIC HEARINGS**

1. Ordinance 1535, Zoning Text Amendment 18-97504 Amending Sections of the Zoning Ordinance (Title 17 of the Banning Municipal Code) Related to Tattoo and Body Piercing Establishments EXHIBIT "A".

Interim Community Development Director, Maryann Marks presented the staff report as contained in the Agenda packet in the form of a PowerPoint presentation. She reports staff confirmed Planning Commission's approval with no changes to the ordinance as it was written. Current code prohibits uses by residential uses and specific identified sensitive uses. Prohibits uses along most of Ramsey Street, the main commercial corridor. Proposed changes allow uses in most commercial zoned areas and the downtown commercial zoning district. It was determined by staff that a Conditional Use Permit would allow Planning Commission to look at each application individually. The Ordinance allows Planning Commission to consider each proposed use individually though the Conditional Use Permit process. Planning Commission is allowed to make a discretionary approval based on a specific location and its appropriateness. (Map displayed)



The Mayor opened the Public Hearing to comments from the public.

Don Smith supports this amendment. Feels this is a professional business of artists and is a step in the right direction. Suggests that at some point in time a set of rules be established that require them to have health permits and meet particular requirements.

Ellen Carr supports this amendment. This is a business to give a chance to.

Sarah Castellanos, confirms that the County of Riverside does regulate tattoo businesses and is followed by The Department of Health. Mrs. Castellanos states that their business will have about \$5,000 of fees after paying for a Conditional Use Permit. She thanked the council for their consideration.

Council Member Peterson inquired about the cost of a Conditional Use Permit. Rochelle Clayton states that there is a suspension of the permit fees at this time.

Seeing no further public comments, the Mayor closed the Public Hearing.

The Mayor asked the Deputy City Clerk to read the title of Ordinance 1535.

The Deputy City Clerk read the title of Ordinance 1535.

**Motion Franklin/Peterson to waive further reading of Ordinance 1535. Motion carried, 4-0.**

**Motion Franklin/Welch Ordinance 1535 pass its first reading. Motion carried, 4-0.**

2. Adoption of Zoning Code Amendments to Allow, Regulate and Zone to Allow Retail Cannabis Uses in the Highway Serving Commercial Zone, and Municipal Code Amendments to Establish Procedures for the Issuance of Cannabis Retailer Regulatory Permits, Both Amendments Contingent Upon the Adoption of a Tax Measure on Such Uses

City Attorney, Kevin G. Ennis presented the staff report as contained in the Agenda packet in PowerPoint format. EXHIBIT "B".

Attorney Ennis explained:

- Relationship to Ballot Measure "O"
- Ordinance 1527 – Regulatory ordinance
- Ordinance 1531 – Zoning ordinance
- Planning Commission recommendation
- Public Hearing, CEQA determination and Introduction of Ordinances
- Retailer Licenses
- Regulatory Permit
- Application Requirements



- Permit Denial
- Cannabis Retailer Conditional Use Permit
- Highway Serving Commercial Zone
- Limits of Locations of Cannabis Retailers
- Limit Number of Cannabis Retailers
- Regulations
- Planning Commission Recommendation

Mayor Moyer inquired as to why the minimum 800 square feet of retail space.

Council Member Peterson responded with it was a recommendation from Commissioner Krick.

Council Member Peterson expressed concern with the deletion of the required 600 feet between stores. The advantage of requiring 600 feet between stores is it limits the amount of cannabis businesses allowed in the city.

Council Member Welch concurred with Council Member Peterson's concern about the deletion of the required 600 feet between stores and inquires if it can remain in place with the rule of population (one business per 10,000 population).

City Attorney Kevin Ennis responds yes both standards can be in place.

Council Member Franklin asks if keeping the two standards would cause problems in the future.

City Attorney Kevin Ennis states that it would not.

The Mayor opened up for Public Comment.

David Ellis asks for explanation of chapter 1320 wastewater.

Art Vela explains to him that his question is regarding cultivation not retail.

Don Smith states he believes that there is no concern of running out of retail space. States he does not know what the benefit of 600 feet between retailers. Does not see a downside to the separation rule.

Paul Perkins watched the Planning Commission video and agrees with the 1 per 10,000 and the separation of retailers.

Seeing no further public comments, the Mayor closed the public comments.

Council Member Peterson made comment to the fact that he is not in support of cannabis retail but understands not everyone shares the same opinion therefore council is doing the best they can to accommodate the people with the Ordinances going into place.

Council Member Welch confirmed that cannabis retail is not something council wanted in the City of Banning but the public did, so the Ad Hoc committee has worked hard to put together Ordinances to allow retail cannabis and the upside to these is it will be controlled and a benefit to public safety.

The Mayor reconfirmed that the council was forced to address this due to a lawsuit and would have preferred to not allow retail cannabis but Ordinances are being put in place to accommodate those who prefer cannabis businesses.

The Mayor asked the Deputy City Clerk to read the title of Ordinance 1531.

The Deputy City Clerk read the title of Ordinance 1531.

**Motion Peterson/Welch to waive further reading of Ordinance 1531. Motion carried, 5-0.**

**Motion Peterson/Welch Ordinance 1531 pass its first reading. Motion carried, 5-0.**

The Mayor asked the Deputy City Clerk to read the title of Ordinance 1527.

The Deputy City Clerk read the title of Ordinance 1527.

**Motion Peterson/Welch to waive further reading of Ordinance 1527. Motion carried, 5-0.**

**Motion Peterson/Welch Ordinance 1527 pass its first reading. Motion carried, 5-0.**

3. Resolution 2018-137, Approving a Twelve (12) Month Extension of Time for Tentative Tract Map No. 30906 for Property Generally Located West of Mountain Avenue, East of Highland Home Road, and North of Gilman Street (APNs: 535-020-004, 535-020-026, 535-020-029 and 535-030-050)

Interim Community Development Director, Maryann Marks presented the staff report as contained in the Agenda packet in the form of a PowerPoint. EXHIBIT "C".

Maryann Marks explains about Time Extension TPM 30906:

- Project Applicant: Bilberry Banning, LLC
- Project Location: West of Mountain Avenue, East of Highland Home Rd., North of Gilman Street
- Project Area: 158.5 acres
- 56 Finished SF lots and 215 underdeveloped SF lots
- Additional Conditions of Approval added due to length of extensions
- History of Project



Council Member Peterson inquired if applicant agrees to the Conditions of Approval.

Maryann Marks responded that the applicant did agree to the Condition of Approval by email but there is not a signed document. She invited the developer to speak for himself.

A Representative for the applicant confirmed he can give an oral agreement to the Condition. He was unable to get a signature from the owner in such a short time.

Council Member Franklin asked the representative if his intention is to start construction within 12 months.

The representative stated the owner wants to comply with the city but has to look at his financial situation and see how much he can accomplish.

Mayor Moyer stated the problem is this was originally approved 14 years ago. He asks if they plan on building.

The representative explained that in 2012 the current owner purchased from the previous owner who went bankrupt. At that time the new owner did some improvements.

Mayor Moyer inquired when the improvements were made, why didn't the applicant move forward with building.

The representative stated financial reasons prevented building at that time.

Councilmember Peterson inquired if this is foreign ownership.

The representative answered yes.

Councilmember Peterson inquired how often owner comes to town.

The representative stated he does not know.

Councilmember Peterson inquired if the representative has ever met the owner.

The representative stated he has and communicates regularly with the owner.

Councilmember Peterson asked for confirmation as to whether the owner has the money to complete the project.

The representative stated that is probably true.

Councilmember Welch, directed to Attorney, inquiry if this is the last acceptable extension to August 2019.



City Attorney Kevin Ennis states it is, unless California legislature enacts a Bill to grant automatic extension for maps that are still in effect before that date. He continues to say that legislature has done that multiple times in the past ten years. If they do that the applicant can get the benefit of that legislature extension. If they don't then the director is indicating this will be the last 12 months.

Mayor Moyer inquires if owner is entitled to three automatic extensions.

Attorney Kevin Ellis responds, can apply but is discretionary.

Council Member Andrade inquires why applicant waited so long to file for an extension.

The representative stated that he had buyers looking at the property so he was working with them.

The Representative stated the owner is interested in developing the property and then sell to a builder. Owner has done some improvements to a certain degree.

Council Member Franklin, asked if the owner has experience in developing property.

The representative stated yes, but it is just part of what they do.

Councilmember Welch, inquired if can we take a temp action tonight based upon a tentative approval.

Attorney Kevin Ellis responds, if council is inclined to grant an approval to add a section three to the resolution that would read, "the time extension granted in section two of this resolution shall not take effect until the property owner provides written signed consent to the Conditions of Approval attached to Exhibit A." So if you approve that then you will have taken the action tonight but their approval doesn't take effect until that signed extension is admitted. Which would need to be done within five working days. Otherwise you can direct staff to deny the extension and then bring back a resolution confirming that denial at your next meeting.

The Mayor opens up for Public Comment.

Paul Perkins suggested if you do extend it that you have a timeline that shows when they start.

John Hagen feels like owner is hanging onto property looking for it to grow in value and then will sell it.

Don Smith thinks a three-week extension could be granted and then denied at that time if necessary.

Seeing no further public comments, the Mayor closed the Public Hearing.

Council Member Franklin wanted to make a motion to allow a three-week extension.

Attorney Kevin Ellis requested a consult with staff.

6:27pm Recess called

6:37pm Order

Upon return, Attorney Kevin Ellis stated, legally you can grant a three-week extension but staff suggests to add section three and give ten calendar days to get a signed agreement.

Council Member Peterson offered a substitution motion to disapprove the extension to Tentative Parcel Map 30906.

**Substitute Motion to disapprove the tract map. Peterson/Andrade. Motion carried 4-1, with Council Member Franklin voting against.**

#### 4. Resolution 2018-130, Amending the Residential Rate Structure

Electric Utility Director, Tom Miller presented the staff report as contained in the Agenda packet with a Power Point presentation. EXHIBIT "D".

Council Member Peterson commended the usage rate change.

Mayor Moyer provided some clarification of the usage rate change.

Council Member Welch inquired if this this is the same as the level-pay-plan.

Tom Miller stated it is not.

The Mayor opens up for Public Comment.

Ellen Carr pleased the new rate plan.

Don Smith pleased with the new rate plan. Important to note that it will be the low usage users that will see the rate increase. The other customers will see a more level due bill. States it is important to notify the low income users that there is an available program to them for discount.

Councilmember Peterson shared the different discount levels: Low Income gets a discount of \$30 per month, medical qualified gets \$25 discount per month and low income with medical combined gets a \$50 discount per month. He shared that if customers go to the utilities counter they can inquire about discount.

Seeing no further public comments, the Mayor closed the Public Hearing.



**Motion Peterson/Franklin to approve Resolution 2018-130. Motion carried, 5-0.**

## ANNOUNCEMENTS & REPORTS

### CITY COUNCIL COMMITTEE REPORTS

Council Member Welch announced RTA had their Bus Rodeo. The professional driver that won the rodeo will be going to Ft. Worth for international competition. Council Member Welch participated.

Council Member Andrade wished Sonja De La Fuente a good farewell.

Council Member Franklin first, thanked the Mayor for a successful State of the City address. Attendees gave a lot of compliments. Second, shared a thank you to Veronica Craighead, an employee in the Electric Department. A customer said she gave excellent customer service. Third, last Saturday, the Fire Department, The American Red Cross and local residents participated in "Sound the Alarm" an installation of smoke detectors program. Two hundred and seven smoke detectors were installed. Fourth, we had two residents last month that received the county award of Champions of Justice from the Fair Housing Council, Robert and Jackie Atwood. Fifth, RCTC is looking forward to the work starting on the truck climbing lanes through the Badlands. Construction is expected to start in 2019. Lastly, the Water Alliance is having their last meeting for the year tomorrow at 5pm at City Hall.

The Mayor thanked Sonja, Laurie, Rochelle, Leila, Stacy and Chamber for helping put the State of the City address.

### REPORT BY CITY ATTORNEY

City Attorney had nothing to report.

### REPORT BY CITY MANAGER

City Manager Doug Schulze reported the position for Police Chief has 3 final candidates. Interviews are scheduled for mid-November. Interviews will be comprised of a three panel interview, city tour and a community meet and greet.

There are seven vacant officer positions. Five candidates have been tested and are in the background process.

Saturday evening there was a residential structure fire in the Sun Lakes development. There were no injuries.

Another vacancy is the Community Development Director position. It has been posted and expect to hold interviews in December.



The City Manager Report and City Manager Facebook page is a tool to share information with the public.

At the last City Council meeting there was a public comment related to truck route signage and load limits. Art Vela and staff did review the truck routes and the signage that is in place it was found that the truck route signs are installed along the approved route.

There is a free Community Clean Up event on 10/27/2018 from 8:00am – 1:00pm.

## REPORTS OF OFFICERS

1. Resolution 2018-128, Approving Fiscal Year (FY) 2019-2020 Community Development Block Grant (CDBG) Program Project

Economic Development Manager, Ted Shove presented the Staff Report as contained in the Agenda packet.

Mayor Moyer commented that the city is in dire need of money to fix the parks and do things for the kids in our community. The council decided the money had to stay within the city. This is the reason council decided to do the Dysart Park project rather than share the money with the non-profit. Non-profit has many sources of revenue and is doing very well.

Council Member Franklin agrees with the choice of Dysart Park. It is in need of restrooms during Stagecoach Days.

City Councilmember Welch concurs. Also informs that RTA will be giving a bus to Boys & Girls Club.

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

**Motion Welch/Andrade to adopt Resolution 2018-128, Approving Fiscal Year (FY) 2019-2020 Community Development Block Grant (CDBG) Program Project to invest in improvements to Dysart Park. Motion carried, 5-0.**

2. Resolution 2018-134, Approving Community Development Block Grant (CDBG) 2019-2024 Consolidated Plan Needs Assessment

Economic Development Manager, Ted Shove presented the Staff Report as contained in the Agenda packet.

The Mayor opened the item for public comment.

Paul Perkins expresses he feels there are too many questions on the survey.

Seeing no further comments, the Mayor closed public comment.

**Motion Peterson/Franklin to adopt Resolution 2018-123, approving Community Development Block Grant (CBGD) 2019-2024 Consolidated Plan Needs Assessment. Motion carried, 5-0.**

3. Consider Setting a Public Hearing to Address a Request for Waiver of Fees in Accordance with Section 15.72.050 of the Banning Municipal Code, submitted by Ronnell Gallon and John Weeks, for Properties Identified as Assessor's Parcel Numbers 532-160-007, 532-160-008, and 532-160-009

Economic Development Manager, Ted Shove presented the Staff Report as contained in the Agenda packet along with a Power Point presentation. EXHIBIT "E".

Council Member Peterson stated this is a reasonable request due to a hole in the zoning area (see map in PowerPoint).

Councilmember Welch concurred.

Councilmember Andrade disagreed due to the financial burden being put on the taxpayers. It is an estimated total of \$17,840. Refer to PowerPoint slide titled Fee Waiver Components.

Mayor Moyer asked City Manager Doug Schulze if there would be a massive general plan amendment or a specific plan amendment.

City Manager Doug Schulze stated the intent is to do a fairly extensive update of the general plan. Typically to do that it could take 18-24 months.

Mayor Moyer inquired if it cost \$6000 to make this one amendment while taking the 18-24 months to update the general plan.

Economic Development Manager, Ted Shove, answers, it is to his understanding that the next general plan amendment is not fully funded so it might be another 2 years before it goes out to RFP for that. Gives explanation to PowerPoint slide Required Findings – 15.72.050(B).

Council Member Franklin comments that there are economic benefits from expanding businesses.

Council Member Andrade commented businesses already receive a suspension of regular permit fees such as signage, this would be an addition to that. Inquired if all businesses would be receiving fee waivers.

Council Member Peterson commented this will be fixed during general plan amendment.



The Mayor opened the item for public comment.

Don Smith inquired if you want staff to spend time to prepare paperwork, is this the best use of general fund money? It is in the best interest of City Of Banning to have prosperous businesses to create wealth in the city.

Laura Leindecker, representing John Weeks, owner of Pinball Museum, and is wanting to expand along with Zenner.

Ronald Gallon stated Zenner has been in town since 2012, 80% of employees are from City of Banning and pays above minimum wage. It would be beneficial to allow them to expand by waiving fees.

Paul Perkins asks for reports to include the sales tax that we are receiving from the businesses and amount of employees.

Seeing no further comments, the Mayor closed public comment.

**Motion Franklin/Peterson to move forward with a Public Hearing to Address a Request for Waiver of Fees in Accordance with Section 15.72.050 of the Banning Municipal Code, submitted by Ronnell Gallon and John Weeks, for Properties Identified as Assessor's Parcel Numbers 532-160-007, 532-160-008, and 532-160-009. Motion carried, 4-1, with Council Member Andrade voting against.**

4. Resolution 2018-126, Approving a Professional Services Agreement Between the City of Banning and Innovative Federal Strategies, LLC for Federal Advocacy and Governmental Affairs Services

Deputy City Manager Rochelle Clayton presented the Staff Report as contained in the Agenda packet.

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

**Motion Welch/Peterson to adopt Resolution 2018-126. Motion carried, 5-0.**

5. Resolution 2018-135, Approving the Third Amendment to the Professional Services Agreement with HR Green Pacific, Inc. Of Orange, California, Increasing the Fiscal Year 2018-2019 Agreement Budget Amount to \$75,000

Public Works Director, Art Vela presented the Staff Report as contained in the Agenda packet.

Councilmember Peterson inquired about reason for name change.

Art Vela does not know.



The Mayor opened the item for public comment. Seeing none, closed public comment  
**Motion Peterson/Welch to adopt Resolution 2018-135. Motion carried, 5-0.**

6. Resolution 2018-136, Approving the Sixth Amendment to the Professional Services Agreement with Charles Abbott Associates, Inc. to Increase the Compensation for the Public Works Department Scope of Services in the Amount of \$75,000

Public Works Director, Art Vela presented the Staff Report as contained in the Agenda packet.

The Mayor opened the item for public comment.

Paul Perkins inquires if the 90% increase in fees was with Abbott and do they get that.

Art Vela confirms it is the same company but the increase was for Building and Safety services, and this amendment is specifically for public works, plan checks.

**Motion Welch/Franklin to adopt Resolution 2018-136. Motion carried, 5-0.**

#### DISCUSSION ITEMS

None

#### ITEMS FOR FUTURE AGENDAS

1. Mills Act Update
2. Fee Suspension Update
3. Website Redesign
4. Street Naming Policy to Honor Land Owners
5. Contingency Plan for Residents During Emergencies
6. Appraisals Update
7. Senior at Banning High School was recently selected to be an Intern for Congressman; Aliyah Amis.

#### ADJOURNMENT

By common consent the meeting was adjourned at 7:43 P.M.

Minutes Prepared by:

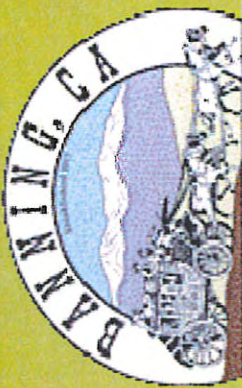
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Chandra Steiner, Executive Assistant

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=Pn1cHgYaZU9N> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.

**Exhibit “A”**  
**to the October 23, 2018, Regular Meeting Minutes**





# COMMUNITY DEVELOPMENT PLANNING DIVISION







**ORDINANCE 1535 - ZONE TEXT AMENDMENT NO. 18-97504:**  
**Amending Standards and Guidelines for Tattoo & body Piercing Establishments**

- August 1, 2018 Planning Commission Recommended Approval
- September 10, 2018 City Council considered ZTA 18-97502
- Questions arose on Planning Commission's recommendation
- Item pulled for review
- Staff confirmed Planning Commission recommendation of approval with no changes



**ORDINANCE 1535 - ZONE TEXT AMENDMENT NO. 18-97504:**  
**Amending Standards and Guidelines for Tattoo & body Piercing Establishments**

- Current code prohibits uses by residential uses and identified sensitive uses.
- Prohibits uses along most of Ramsey Street - the main commercial corridor.
- Proposed changes allow uses in:
  - Most commercially zoned areas
  - The Downtown Commercial zoning district
- Subject to a Conditional Use Permit.

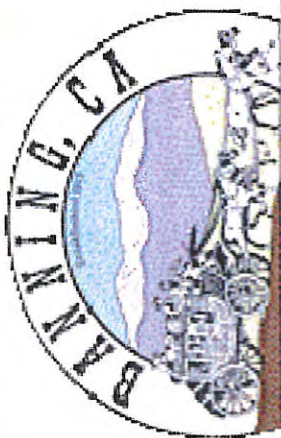




**ORDINANCE 1535 - ZONE TEXT AMENDMENT NO. 18-97504:**  
**Amending Standards and Guidelines for Tattoo & body Piercing Establishments**

- Ordinance allows:
- Planning Commission to consider each proposed use individually through the Conditional Use Permit process.
- Planning Commission to make a discretionary approval based on a specific location and its appropriateness to the character of the area.

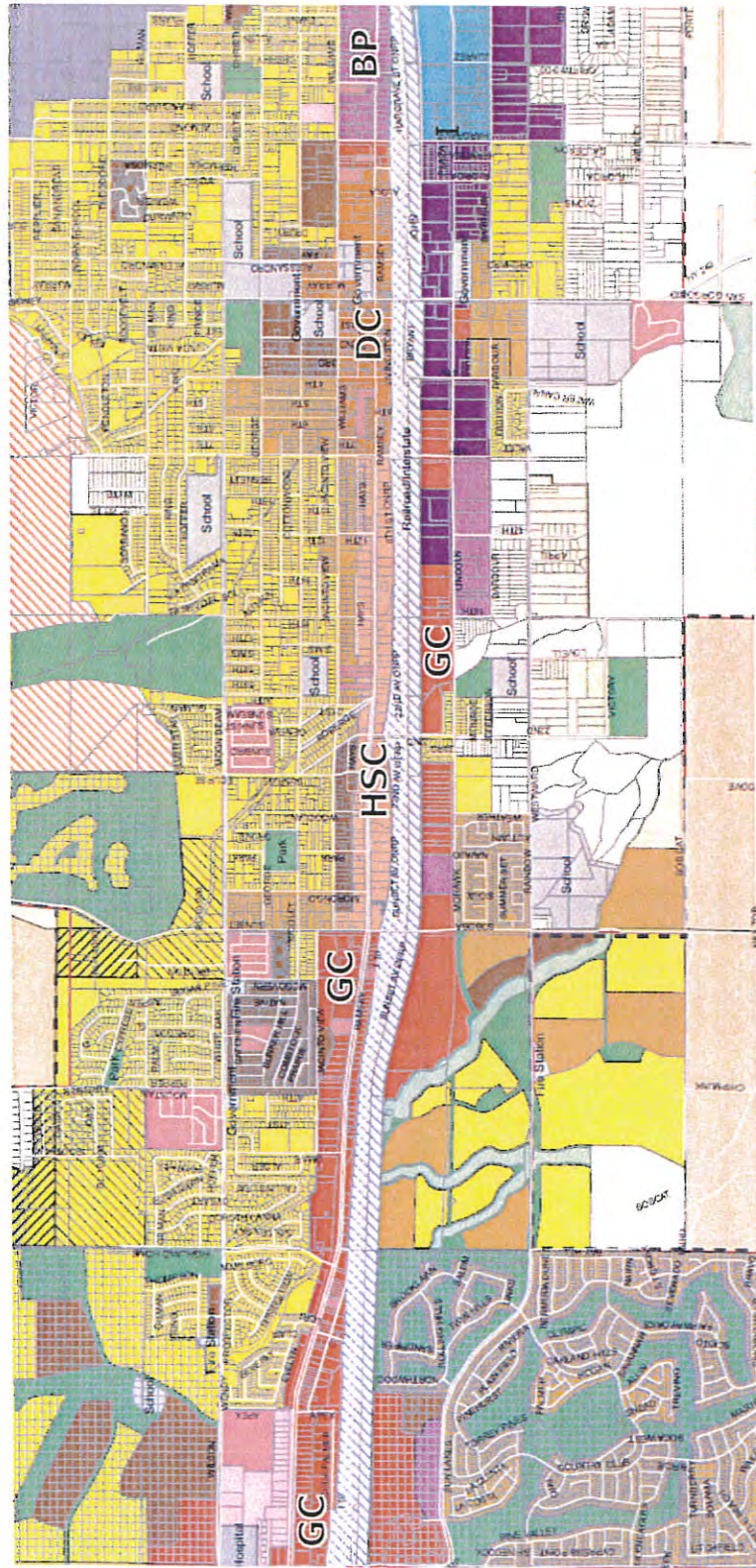
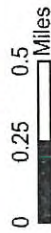




**STAGECOACH TOWN USA**  
Proud History • Prosperous Future

## Zoning Map

Scale = 1:22,883



GENERAL COMMERCIAL (GC)  
HIGHWAY SERVING COMMERCIAL (HSC)  
DOWNTOWN COMMERCIAL (DC)  
BUSINESS PARK (BP)





# Community Development Planning Division

City of Banning – Planning Division  
99 E. Ramsey Street  
Banning, CA 92220  
(951) 922-3125



**Exhibit “B”**  
**to the October 23, 2018, Regular Meeting Minutes**

# Cannabis Retailer Ordinances

## City Council Meeting

City of Banning  
99 E. Ramsey Street  
Banning, CA 92220

October 23, 2018  
5:00 P.M.



## Overview

- Relationship to Ballot Measure "O"
- State licensing definition - Retailer
- Ordinance 1527 - Regulatory ordinance
- Ordinance 1531 - Zoning ordinance
- Planning Commission recommendation
- Public Hearing, CEQA determination and Introduction of Ordinances



## Relationship to Measure O

- Measure O appears on the November 6<sup>th</sup> Ballot.
- Measure O would impose a 10% gross receipts tax on retail cannabis operations in the City.
- If Measure O is approved by the voters, then the City could allow a limited number of regulated retail cannabis stores in the City starting in January 2019.
- Ordinance 1527 (Regulatory Permit Ordinance) and Ordinance 1531 (Zoning and CUP Ordinance) are designed to have City standards in place if Measure O is approved by the voters.
- If Measure O is not approved, these implementing ordinances would not go into effect.

## Relationship to Measure O

- Ordinance 1527 is before you today and would require cannabis retailers to obtain a cannabis regulatory permit from the City to operate in the City.
- Ordinance 1531 is also before you today and would specify that cannabis retailers could only be located in the Highway Serving Commercial Zone, subject to separation standards between these retailers and certain other uses, and provide standards for issuing Conditional Use Permits for these retailers.



## Retailer

State has two license categories for cannabis retailers:

- Retailer (storefront): Sells cannabis goods to customers at its premises or by delivery. A retailer must have a licensed physical premises where commercial cannabis activities are conducted.
- Retailer (nonstorefront): Sells and delivers cannabis goods to customers. A retailer must have a licensed premises, but it is not open to the public.

## Draft Ordinance 1527



## Regulatory Permit Ordinance

- Adds Chapter 5.33 to Title 5 (Business Licenses and Regulations) of the Municipal Code to allow the issuance of a regulatory permit to cannabis retailers.
- City Manager in consultation with the Police Chief will determine whether to issue the permit.

## Application Requirements

- Payment of non-refundable fee
- Owners of businesses are subject to fingerprinting and background check
- Must show proof of the legal structure of the business
- Must provide information regarding the type of business that will be operated and products that will be sold
- Must either own the property in fee, or provide a notarized statement that property owner consents to use of property for a cannabis retail business
- Applicant must release and indemnify the City from all liability associated with the City approving the permit



## Permit Denial

City Manager must deny the permit if the applicant, owner, or any person with a financial interest in the cannabis business has:

- Unpaid or overdue administrative penalties or civil judgment owed to the City;
- Within the last five years been issued an uncontested administrative citation for engaging in unlawful commercial cannabis activity, or been the subject of a lawsuit for engaging in unlawful commercial cannabis activity where the applicant was not the prevailing party;
- Been convicted of certain specified crimes.

## Draft Ordinance 1531



## Cannabis Retailer Conditional Use Permit

- Adds Chapter 17.54 to Title 17 of the Municipal Code to allow the issuance of a Cannabis Retailer Conditional Use Permit to cannabis retailers.
- Cannabis Retailer Conditional Use Permits would be reviewed by Planning Commission for recommendation and final approval by the City Council.

## Highway Serving Commercial Zoning

- The City Council provided direction that cannabis retailer uses be limited to the Highway Serving Commercial zoning district.
- Generally bounded by the I-10 Freeway on the south, Hays Street on the north, Sunset Avenue on the west and 8<sup>th</sup> Street on the east.



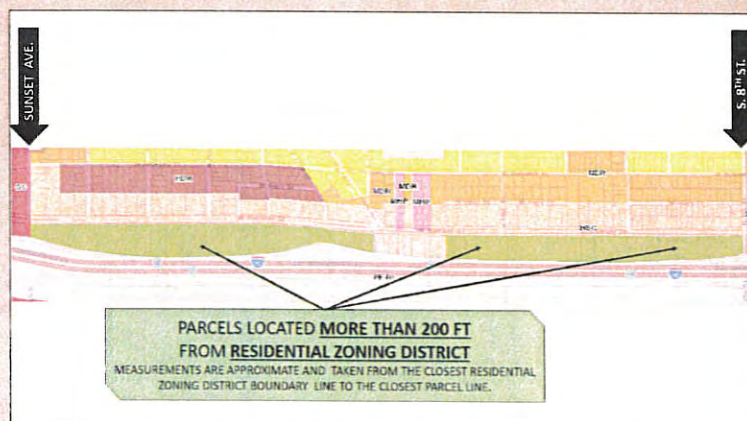


## Limits on Locations of Cannabis Retailers

- State requires that cannabis business be located at least 600 feet from a day care center, youth center or school providing instruction in kindergarten, or grades 1-12.
- Ordinance includes a 600-foot separation from parks as well.
- Also, a 200-foot separation from residentially zoned property.

## Separation from Residential Zoning

200' results in approximately 58 eligible parcels





## Limits on Number of Cannabis Retailers

- Cannabis Ad Hoc Committee, police and staff expressed concerns about proliferation of cannabis retailers given that it is a relatively new industry and the limited public safety resources.
- Considered imposing separation requirements between cannabis retailers but ultimately rejected this approach.
- CUP ordinance provides that only 1 cannabis retailer is allowed for every 10,000 residents which results in 3 cannabis retailers being allowed to operate in the City.

## Regulations

- 24 hour security guard, video surveillance, and alarm system
- Cannabis cannot be visible from outside the building
- Installation of ventilation and filtration systems to prevent odors from escaping the buildings and being detected outside of the building
- Restriction on use of graphics, and illumination in signage
- Must comply with Track and Trace Program
- Personnel must be 21 years of age or older



## Additional Regulations

- Cannabis waste must be made unusable and unrecognizable by mixing it with non-cannabis waste
- Hours of operation limited to between 8:00 a.m. and 10:00 p.m.
- Prohibition on on-site consumption
- Staff added an additional regulation that cannabis business must comply with commercial recycling laws and regulations

## Planning Commission Recommendation

- Unanimously recommended that the City Council adopt the conditional use permit ordinance with the following modifications:
  - 800 square foot minimum size requirement for building
  - Deletion of 600 foot separation requirement between cannabis retailers
  - Retailers must comply with Chapter 13.20, Industrial Wastewater Collection and Treatment
- Ordinance was revised to incorporate these revisions



## Recommendation

- Open the public hearing, take testimony, close the public hearing.
- Concur with staff that the adoption of these ordinances is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060 (c)(3).
- Waive full reading and introduce Ordinances 1531 and 1537 as read by title and set both ordinances for second reading and adoption at the November 13, 2018 City Council Meeting.

## Questions?

**Exhibit “C”**  
**to the October 23, 2018, Regular Meeting Minutes**



# City of Banning

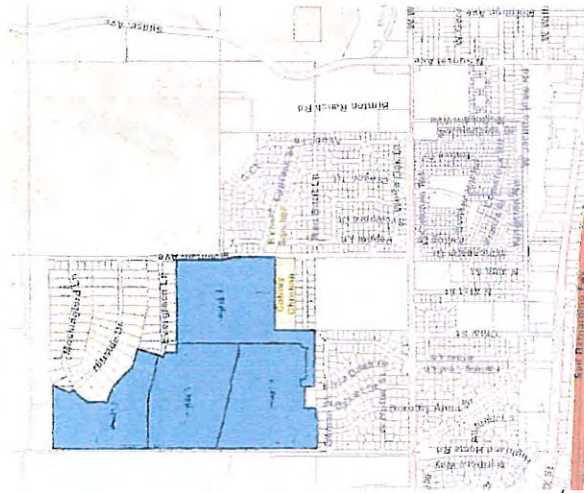
City Council Meeting

October 23, 2018





# TIME EXTENSION TPM 30906



- Project Applicant: Bilberry Banning, LLC
- Project Location: West of Mountain Avenue,  
East of Highland Home Rd, North of Gilman St.
- Project Area: 158.5 acres
- 56 finished SF lots and 215 undeveloped SF lots
- Additional Conditions of Approval added due to  
length of extensions



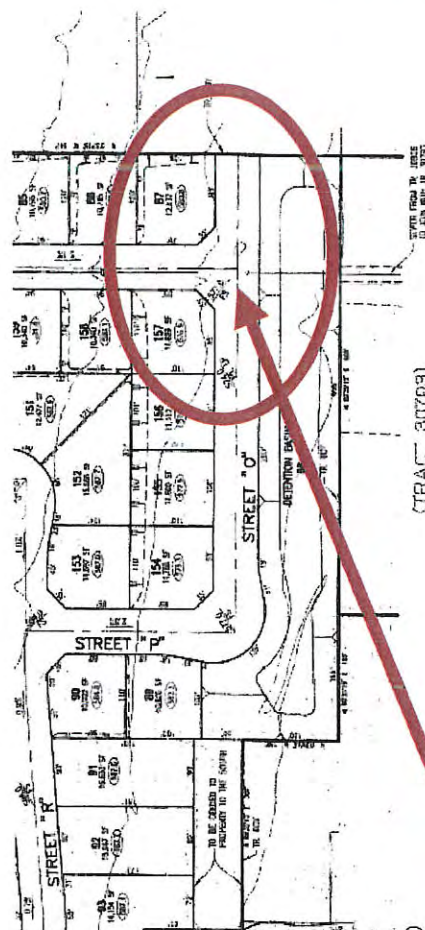
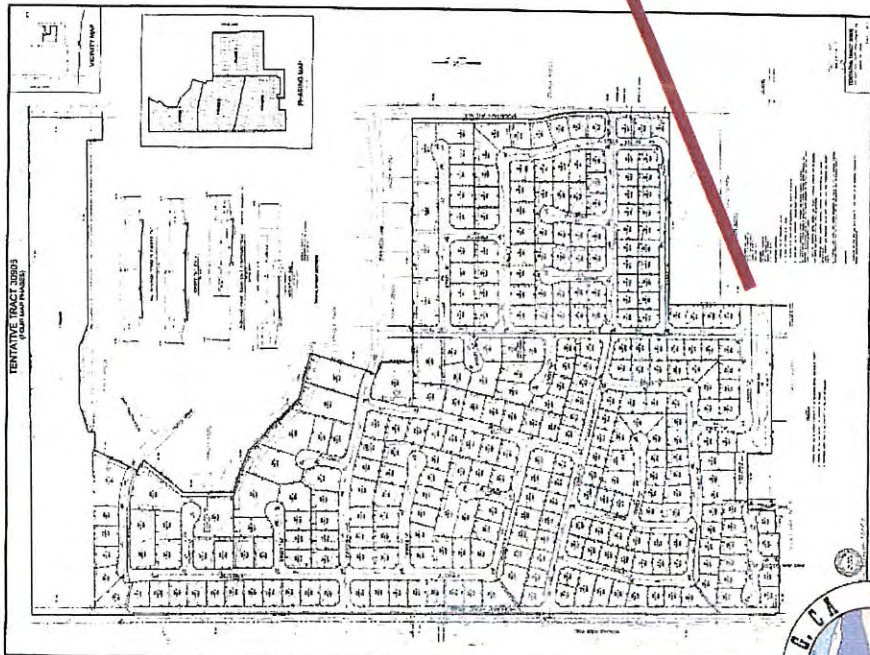
# TPM 30906

## History Overview

TPM APPROVAL HISTORY		APPROVAL DATE	EXPIRATION
ORIGINAL APPROVAL		8/24/2004	8/24/2006
CGC: Section 66452.6 of the Subdivision Map Act (SMA) Recordation of Final map – Automatic Extension of 3 years		3 YR FROM 2006	8/24/2009
STATUTE: SB 1185 (12 MONTHS 7.15.08<1.1.2011)		7/15/2008	8/24/2010
STATUTE: AB 333 (24 MONTHS 7.15.09<1.1.2012)		7/15/2009	8/24/2012
STATUTE: AB 208 (24 MONTHS 7.13.11<1.1.2014)		7/13/2011	8/24/2014
STATUTE: AB 116 (24 MONTHS <1.1.2000)		7/11/2013	8/24/2016
DISCRETIONARY: CITY COUNCIL EXTENSION #3 (RESO 2016-85)		9/27/2016	8/24/2017
DISCRETIONARY: CITY COUNCIL EXTENSION #4 (RESO 2017-81)		8/22/17	8/24/2018
DISCRETIONARY: CITY COUNCIL EXTENSION #5 (RESO 2018-137) (GCS 66463.5(C))		8/23/2018 (tent)	8/24/2019







(TRAC 30703)

# TPM 30906

## Revision





**IN THE CITY OF BANNING  
TENTATIVE TRACT NO. 32370**



**Exhibit “D”**  
**to the October 23, 2018, Regular Meeting Minutes**





# City Council Workshop

September 25, 2018

Residential Rate Redesign Discussion

## Why are we here?

- Redesigning the Residential Rate Structure
- Review the "Boutique" Subsidies
  - Low-income
  - Medical
  - Senior
- Discuss
  - Rates v. Discounts
- Review \$2/customer/month Street Lighting utility charge
- Develop a "game plan"
  - No action to be taken today but to give direction



## Residential Rate Redesign



- Proposition 26
  - Electric "Utility Charges"
  - Proportionality (business piece)
    - Cost of Service
      - Financial goals
      - Revenue Requirements
    - Cash basis
      - Functionalizing costs
      - Allocating costs
    - Utility basis
      - Rate of return on rate base
  - Rate Design (art piece)
  - Rates
  - Tariffs

## Residential Rate Redesign



- "REVENUE NEUTRAL"
  - We are not impacting:
    - Proportionality
      - Cost of Service
        - Financial goals
        - Revenue Requirements
      - Cash basis
        - Functionalizing costs
        - Allocating costs
      - Utility basis
        - Rate of return on rate base
    - We are NOT raising or lowering the revenue requirements
      - Aka NOT raising or lower rates



## Bonbright's Principles (Bonbright, 1961)

### Fundamental Rate Making Principles

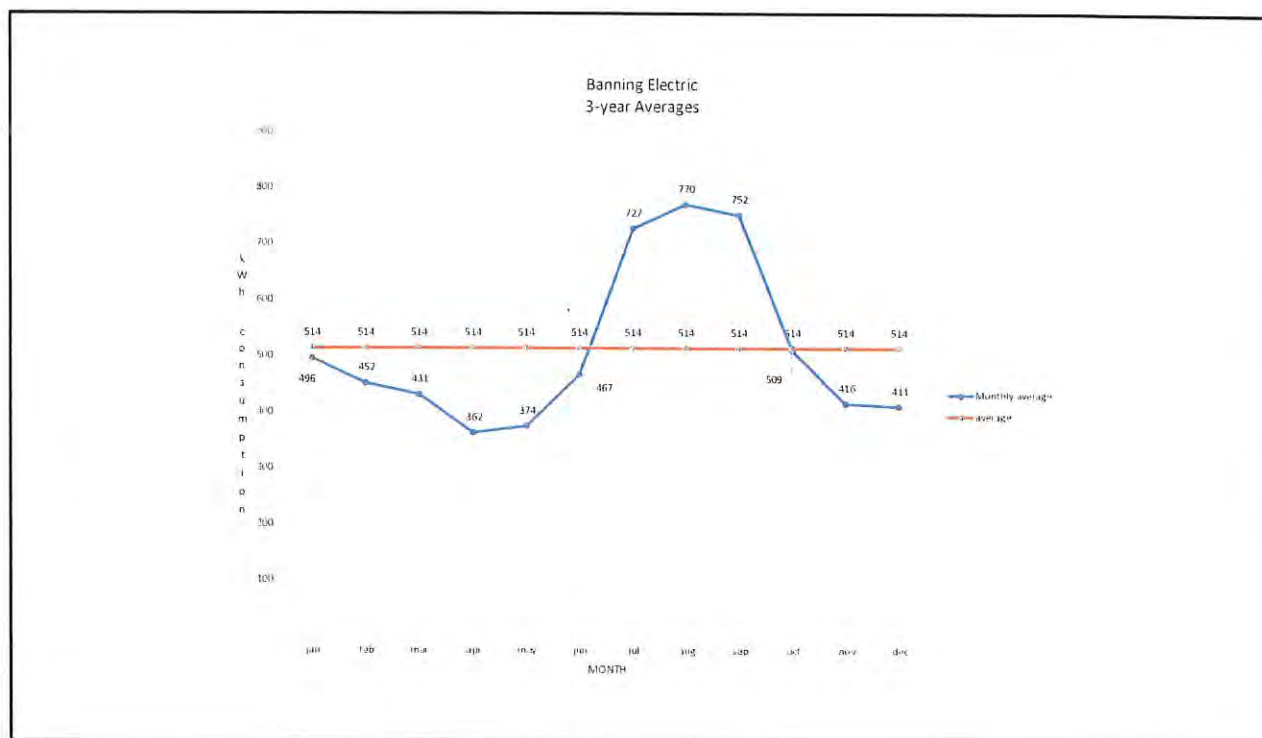
- Paraphrased
  - Practical: simple, understandable, acceptable
  - Uncontroversial as to interpretation
  - Should meet revenue requirements
  - Should provide stable rates
  - Fairness among rate classes
  - Avoidance of undue discrimination
  - Should be economically efficient
  - Discourage wasteful usage



Previous rate design average  
was 500 kWh/month

Spread	AVG	2015	2016	2017	YEAR
8.05%	496	493	494	502	jan
7.33%	452	422	431	503	feb
6.99%	431	386	355	552	mar
5.88%	362	372	352	363	apr
6.07%	374	375	358	390	may
7.58%	467	475	417	510	jun
11.78%	727	704	648	828	jul
12.49%	770	675	829	807	aug
12.19%	752	700	755	801	sep
8.25%	509	562	515	449	oct
6.74%	416	400	421	426	nov
6.66%	411	422	418	392	dec
100.00%	6,167	5,986	5,993	6,523	Total
	514	499	499	544	Average





## Banning Electric Residential Customer's *average* usage is 514 kWh/month

### Winter (431 kWh) ~\$0.19

- Customer Charge \$ 3.00
- Baseline 308 kWh  
@\$0.1688 \$ 51.99
- From 309-1,000 kWh's  
@\$0.2190 (123 kWh) \$ 26.94
- Total \$ 81.93
- >1,000 kWh @\$0.2880
- 8 months (jan, feb, mar, apr, may, oct, nov, dec)

### Summer (679 kWh) ~\$0.182

- Customer Charge \$ 3.00
- Baseline 558 kWh  
@\$0.1688 \$ 94.19
- From 309-1,500 kWh's  
@\$0.2190 (121 kWh) \$ 26.50
- Total \$ 123.69
- >1,500 kWh @\$0.2880
- 4 months (jun, jul, aug, sep)

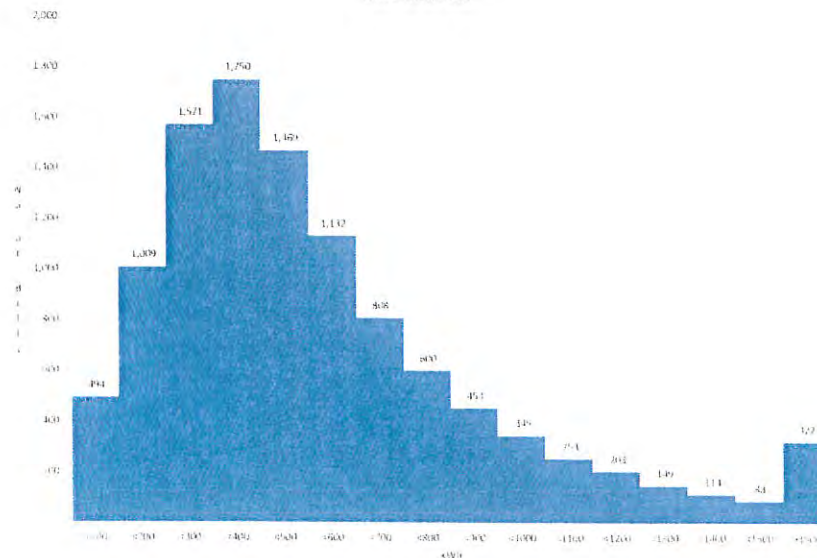


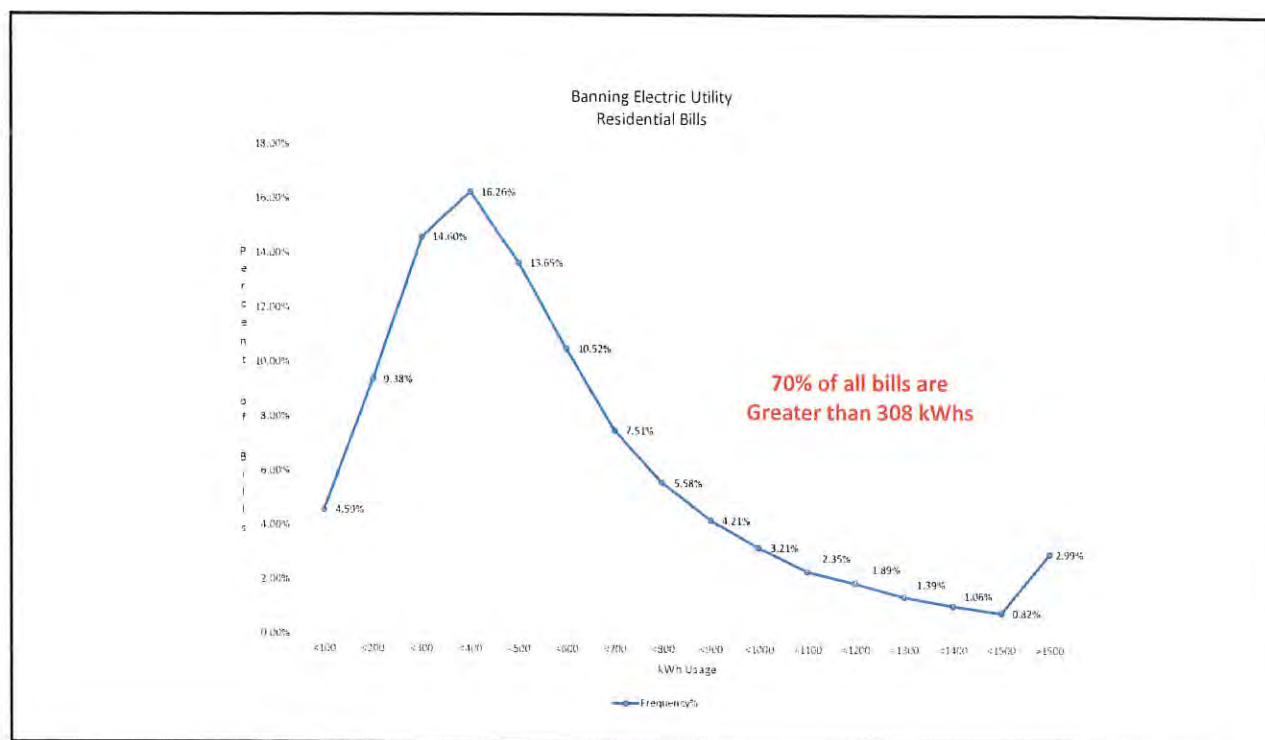
In 2017, Utility Billing issued 129,136 *residential* bills or 10,761 monthly bills (on avg)



<100	494	4.59%
<200	1,009	9.38%
<300	1,571	14.60%
<400	1,750	16.26%
<500	1,469	13.65%
<600	1,132	10.52%
<700	808	7.51%
<800	600	5.58%
<900	453	4.21%
<1000	345	3.21%
<1100	253	2.35%
<1200	203	1.89%
<1300	149	1.39%
<1400	114	1.06%
<1500	88	0.82%
>1500	322	2.99%
	10,761	100.00%

Banning Electric Utility  
Residential Bills





LEIDOS, June 2016

### Time-of-Use Pricing for All Residential and Commercial Customers

Although some utilities have made time-of-use rates available for several classes of customers, they are generally for larger customers and not universally applied. The time-of-use rates are usually optional, but in some cases mandatory. Most of the California utilities on Table A-1 have time-of-use rates for various customer classes. COB has a time-of-use rate for the large general and industrial customer only. COB's purchased power costs do not vary significantly by the time of day and the residential customer base consists largely of renters which would not be conducive to time-of-use rates. It should be noted that the IOU's and SMUD are moving toward collapsing tiers and transitioning to time-of-use rates. For IOU's the time-of-use rate is the default rate for commercial customers, and for SCE it is mandatory for commercial customers. These utilities have implemented advanced metering, which would be required for COB to have time-of-use rates.



## LEIDOS, June 2016

### Tiered Rates

Tiered rates are rates that consist of charges based on usage levels or blocks, and can either be declining or inclining block rates. With declining block rates, increased customer usage is charged a lower rate per unit than lower monthly usages. Inclining block rates charge a higher rate per unit for increased customer usage. In the past, in order to promote electricity usage, many utilities provided declining block-pricing incentives that rewarded higher usage customers with lower prices. However, in today's business environment, many utilities across the country are trying to curb load growth and demand as a means to reduce their exposure to market risks, overall costs and environmental impacts of power production. Utilities now offer rates, including inclining block rates, that encourage a higher load factor, conservation and energy efficiency. As shown on Table A-1, the selected California utilities currently have tiered rates, including COB. It should be noted that the California Investor Owned Utilities (IOU's) and the Sacramento Municipal Utility District (SMUD) are moving toward collapsing the tiered rates and moving more toward time-of-use rates.

## LEIDOS, June 2016

City of Banning  
Rate Trends Study  
Advantages and Disadvantages of Rate Structures

Table A-2

	Advantages	Disadvantages
1. Power Cost Adjustment	Recovers utility costs	Customer acceptance may be poor, adds complexity to bills
2. Regulatory Adjustment	Recovers utility costs	Adds complexity to bills
3. Increased Fixed Charge	Recovers utility fixed costs, justified based on cost of service	Customer acceptance may be difficult, impacts small users
4. Residential Demand Charge	Recovers utility fixed costs, justified based on cost of service	Requires advanced metering, customer acceptance may be difficult
5. Small Commercial Demand Charge	Recovers utility fixed costs, justified based on cost of service	Requires advanced metering, customer acceptance may be difficult
6. Economic Development Rate	May increase high load factor customers, may lower average costs	Existing customers may not accept, not based on cost of service (in cost of service if fixed distribution costs are not allocated in initial years)
7. Electric Vehicle TOU Rate- Premium	Provides incentive for charging off peak, may improve system and overall load factor and lower average costs	Requires separate meters and special billing
8. Electric Vehicle Public Charging Station	Provides utility owned EV public charging stations, justified based on cost of service	Administrative burden
9. Standby Charge	Recovers fixed distribution costs	Adds complexity to bills, may discourage distributed generation, does not apply to NEM
10. New Metering Rate	Promotes distributed generation, helps meet California mandates	May not recover fixed distribution costs
11. TOU for Residential	Sends price signals to change customer behavior, may improve system load factor and lower average costs	Requires advanced metering and may not be understood by customers
12. TOU for Street & Highways Commercial	Sends price signals to change customer behavior, may improve system load factor and lower average costs	Requires advanced metering and may not be understood by customers
13. Unbundled Rates	Tracks revenues by generation, transmission and distribution	Adds complexity to bills, customer acceptance may be difficult
14. Peak-Time Pricing	Cost based rates may be advantageous for industrial customers	Requires advanced metering, communications and billing systems
15. Street Lighting LED Rates	Recovers cost by LED fixture type & energy is consumed	Administrative burden
16. Seasonal Rates	Tracks costs by season	Adds complexity to bills
17. Tiered Rates	Promotes conservation, recovers utility costs	Impacts large users, may produce revenue volatility

## LEIDOS, June 2016

Table A-3

City of Banning  
Rate Trends Study  
Rate Structure Rankings

	Customer Acceptance	Causes Customer to Change Usage Behavior	Ability to Implement from a Technological Perspective	Social, Legal and Regulatory Barriers Affecting Implementation	Financial Risks Related to Implementation	Costs Related to Implementation	Potential Benefits to Utility's Financial Stability
1. Power Cost Adjustment	Moderate	Moderate	Easy	Moderate	Low	Low	High
2. Regulatory Adjustment	Moderate	Moderate	Easy	Moderate	Low	Low	High
3. Increased Fixed Charge	Difficult	Moderate	Easy	Moderate	Low	Low	High
4. Residential Demand Charge	Difficult	High	Moderate	Moderate	High	Moderate	High
5. Small Commercial Demand Charge	Difficult	High	Moderate	Moderate	Moderate	Moderate	High
6. Economic Development Rate	Moderate	High	Easy	Moderate	Moderate	Low	High
7. Electric Vehicle TOU Rate	Easy	High	Moderate	Moderate	Moderate	Moderate	High
8. Electric Vehicle Public Charging Stations	Moderate	High	Easy	Moderate	Low	Moderate	High
9. Standby Charge	Moderate	High	Low	Low	Low	Low	High
10. Net Metering Rate	Easy	High	Moderate	Low	High	Moderate	Low
11. TOU for Residential	Difficult	High	Moderate	Difficult	High	Moderate	High
12. TOU for Small & Medium Commercial	Moderate	High	Moderate	Moderate	Moderate	Moderate	High
13. Unbundled Rates	Moderate	Moderate	Easy	Moderate	Low	Low	High
14. Real-Time Pricing	Difficult	High	Difficult	Moderate	Moderate	Moderate	High
15. Street Lighting LED Rates	Easy	Moderate	Easy	Low	Low	Low	High
16. Seasonal Rates	Easy	Moderate	Easy	Low	Low	Low	High
17. Tiered Rates	Moderate	High	Easy	Moderate	Moderate	Low	Moderate

## Functional cost per kWh.....

• Generation	\$0.0884
• Transmission	\$0.0305
• Distribution	\$0.0596
• Customer Billing	<u>\$0.0152</u>
• <b>Total</b>	<b><u>\$0.1937</u></b>

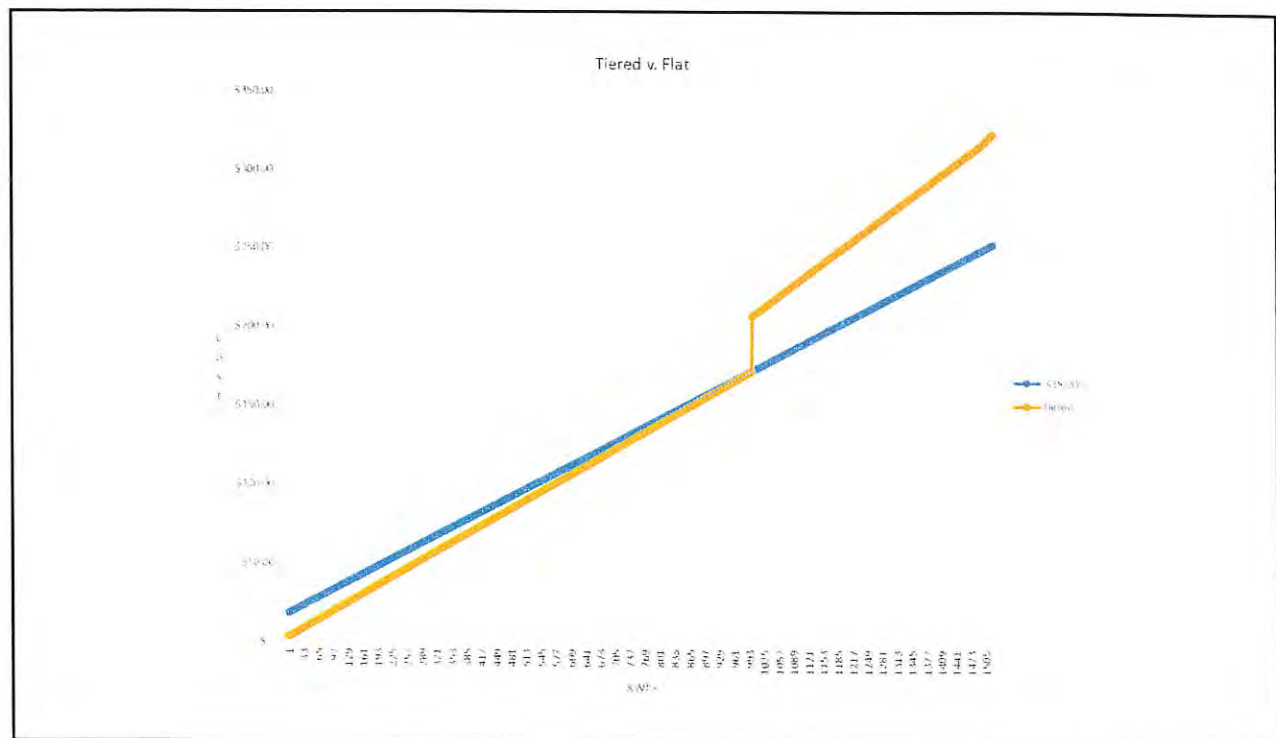
G&T  
\$0.1189

LEIDOS – June 2017



## Proposed Rate Design

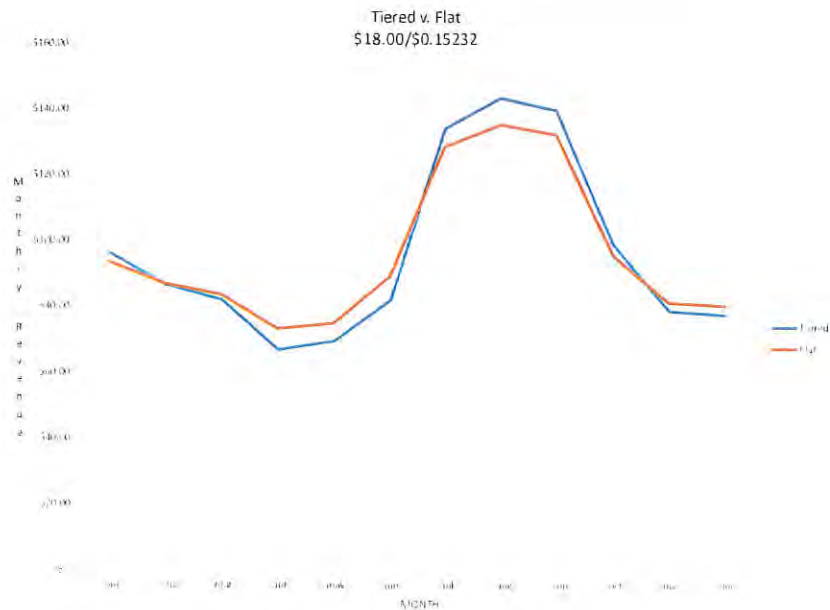
- Distribution Network Charge \$18.00/billing cycle
- Energy Charge per kWh \$ 0.15232/all energy



## Tiered Rate v. Flat Rate *AVERAGE CUSTOMER*

Month	AVG	308	558	\$ 0.2190	\$ 0.1688	S/C	Total	New S/C	\$ 0.15232	Total	
jan	496	188		\$ 41.17	\$ 51.99	\$ 3.00	\$ 96.16	\$ 18.00	\$ 75.60	\$ 93.60	\$ 2.56
feb	452	144		\$ 31.54	\$ 51.99	\$ 3.00	\$ 86.53	\$ 18.00	\$ 68.85	\$ 86.85	\$ (0.32)
mar	431	123		\$ 26.94	\$ 51.99	\$ 3.00	\$ 81.93	\$ 18.00	\$ 65.65	\$ 83.65	\$ (1.72)
apr	362	54		\$ 11.83	\$ 51.99	\$ 3.00	\$ 66.82	\$ 18.00	\$ 55.19	\$ 73.19	\$ (6.37)
may	374	66		\$ 14.45	\$ 51.99	\$ 3.00	\$ 69.44	\$ 18.00	\$ 57.02	\$ 75.02	\$ (5.57)
jun	467		(91)		\$ 78.83	\$ 3.00	\$ 81.83	\$ 18.00	\$ 71.18	\$ 89.18	\$ (7.35)
jul	727		169	\$ 37.01	\$ 94.19	\$ 3.00	\$ 134.20	\$ 18.00	\$ 110.69	\$ 128.69	\$ 5.52
aug	770		212	\$ 46.43	\$ 94.19	\$ 3.00	\$ 143.62	\$ 18.00	\$ 117.34	\$ 135.34	\$ 8.28
sep	752		194	\$ 42.49	\$ 94.19	\$ 3.00	\$ 139.68	\$ 18.00	\$ 114.54	\$ 132.54	\$ 7.13
oct	509	201		\$ 44.02	\$ 51.99	\$ 3.00	\$ 99.01	\$ 18.00	\$ 77.48	\$ 95.48	\$ 3.53
nov	416	108		\$ 23.65	\$ 51.99	\$ 3.00	\$ 78.64	\$ 18.00	\$ 63.31	\$ 81.31	\$ (2.67)
dec	411	103		\$ 22.56	\$ 51.99	\$ 3.00	\$ 77.55	\$ 18.00	\$ 62.55	\$ 80.55	\$ (3.01)
Total	6,167	987	484	\$ 342.08	\$ 777.32	\$ 36.00	\$ 1,155.40	\$ 216.00	\$ 939.41	\$ 1,155.41	\$ (0.01)
Average	514			29.61%	67.28%	3.12%	\$ 0.18734	18.69%	81.31%	\$ 0.18734	

\$0.03503 \$ 0.15233 \$ 0.18735





# Revenue Neutral – 2017 Summary



## Current:

	kWh	Rate	Revenue
BAS1	39,236,249	\$ 0.1688	\$ 6,623,078.82
BAS2	18,869,435	\$ 0.2190	\$ 4,132,406.28
BAS3	1,588,289	\$ 0.2880	\$ 457,427.23
Customers	9,309	\$ 3.00	\$ 335,139.00

## New:

	Rate	Revenue
Energy Charge	\$0.15232	\$ 9,092,585.96
Customer Charge	\$ 18.00	\$ 2,010,834.00

Monthly Average: 534.35  
Total Annual Charges:

\$ 11,548,051.32

\$ 11,103,419.96

Delta  
444,631

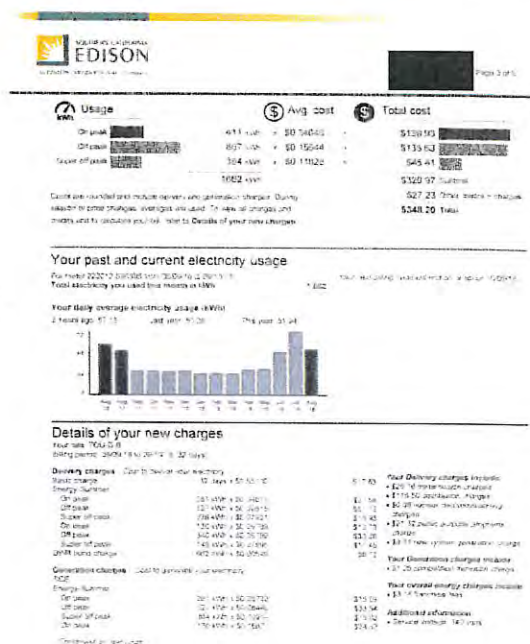
514.00  
20.35  
2,273,490.98

\$ 346,298  
\$ 98,333

Doable  
645,569 kWh

Bottom Line:

# \$0.20951



## Questions or discussion on the proposal?

- Tiered Rates
  - Produce revenue volatility
  - Hard on large users
  - Complicated
  - Used to change lifestyles
  - Controversial
  - Cost of Service - moderate
- Flat Rate
  - Revenue stability
  - Hard on small users
  - Easy
  - Promotes a good standard of living
  - Non-controversial
  - Cost of Service - easy



## “Boutique” Rates

- Boutique means small and exclusive
- Examples at Banning Electric:
  - Low-income rate (Baseline rate from \$0.1688 to \$0.0972 on 308/558 kWh) ~\$336 annually
    - BEAR
    - Master Meter Customers
  - Senior Discount (Service Charge from \$3.00 to \$1.00) ~\$24 annually
  - Medline (Baseline addition from 308/558 kWh to 808/1058 kWh) ~\$301 annually
- Each program can be added to the other
- Tri-Fecta of \$661 annually 52% annual discount





Public Benefit Program = ~\$750,000

Non-by passable charge of 2.85% of electric bill revenue

- Promote Energy Efficiency
  - Appliance rebates
  - Weatherization rebates
- Research and Development
  - New technologies
- Renewable Energy
  - Solar rooftops
  - Distributed Energy Resources
- Education and Information
  - Promotion of Public Benefit Programs
- Low-Income Subsidies

## Value of the Boutique Subsidies

### 2017-2018

- BEAR \$ 290,553
- Master Meter \$ 31,747
- Senior Discount \$ 13,213
- Medline \$ 560,723

Total \$ 896,236

- Average Monthly Cust. 1,448
- Average Monthly subsidy \$52

### 2016-2017

- BEAR \$ 283,771
- Master Meter \$ 27,358
- Senior Discount \$ 13,100
- Medline \$ 581,802

Total \$ 906,031

- Average Monthly Cust. 1,406
- Average Monthly subsidy \$54

## Service Characteristics

- Residential
  - Single phase service at 7200 Volts
  - Transformer 15 kVa
  - 120/240 Voltage
  - Service Panel at 125 amps (generally speaking)
  - Meter and meter socket
- How does the service characteristics change?
  - Low-income?
  - Medline?
  - Senior Citizen?
- Bonbright's principle
  - Avoidance of undue discrimination in rate relationships

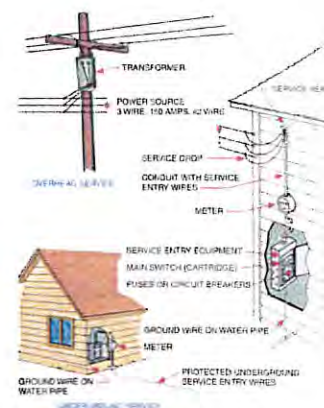


Fig. 31-1 ■ Electrical distribution to buildings.

## Rate v. Discount

- Recommendation is not to do Boutique rates
- Recommendation is to do discounts
  - Medline \$25/month
  - Low-income \$30/month
  - Maximum subsidy of \$50/month
- Recommendation is to fund discounts:
  - Medline as a cost of goods discount per accounting treatment
  - Low-income as a public benefits discount per code





## Any questions on Boutique Discounts?

- Increase low-income from \$25 to \$30/customer/month
- Maintain Medline discount at \$25
- Suspend senior discount
- Maximum discount \$50/customer/month



## Street Light Charge

- Banning Electric Utility owns a street lighting and related secondary power distribution system
- Generally speaking, the City's Public Works department directs the location and installation of street lights
- In many instances a developer installs the street lights in a new development and dedicates the street lighting to Banning Electric
- Maintenance of street lighting system is a budgeted expense
- New LED light fixtures have proven to be low replacement
- Who is the appropriate benefactor of the street lighting system?
- Currently charge all customers \$2/month ~\$313,829 in 2017

## Street Light Charges – Need more homework

- \$2/customer/month?
- Total amount of capital invested in LED lighting
- Rate of return on investment
- Annual cost of maintenance
- Estimate kWh consumption (energy and demand)
- Cost of service approximately \$179,219 direct assignment to street lighting (LEIDOS, June 2017)

## Street Lighting

- Recommend suspending the \$2 charge/customer/month?
- Recommend building into Flat Rate structure?
- Council wishes?





## Banning Electric



## Recap of discussion

- Flat Rate
- Discounts
- Street Lights
- Next steps?
  - Notice of Public Hearing
  - Resolution to append rates
  - Council action
  - 30 day implementation
- Rate Freeze

## **Exhibit “E”**

**to the October 23, 2018, Regular Meeting Minutes**



## **Request for Fee Waiver: Ron Gallon and John Weeks**



## Background

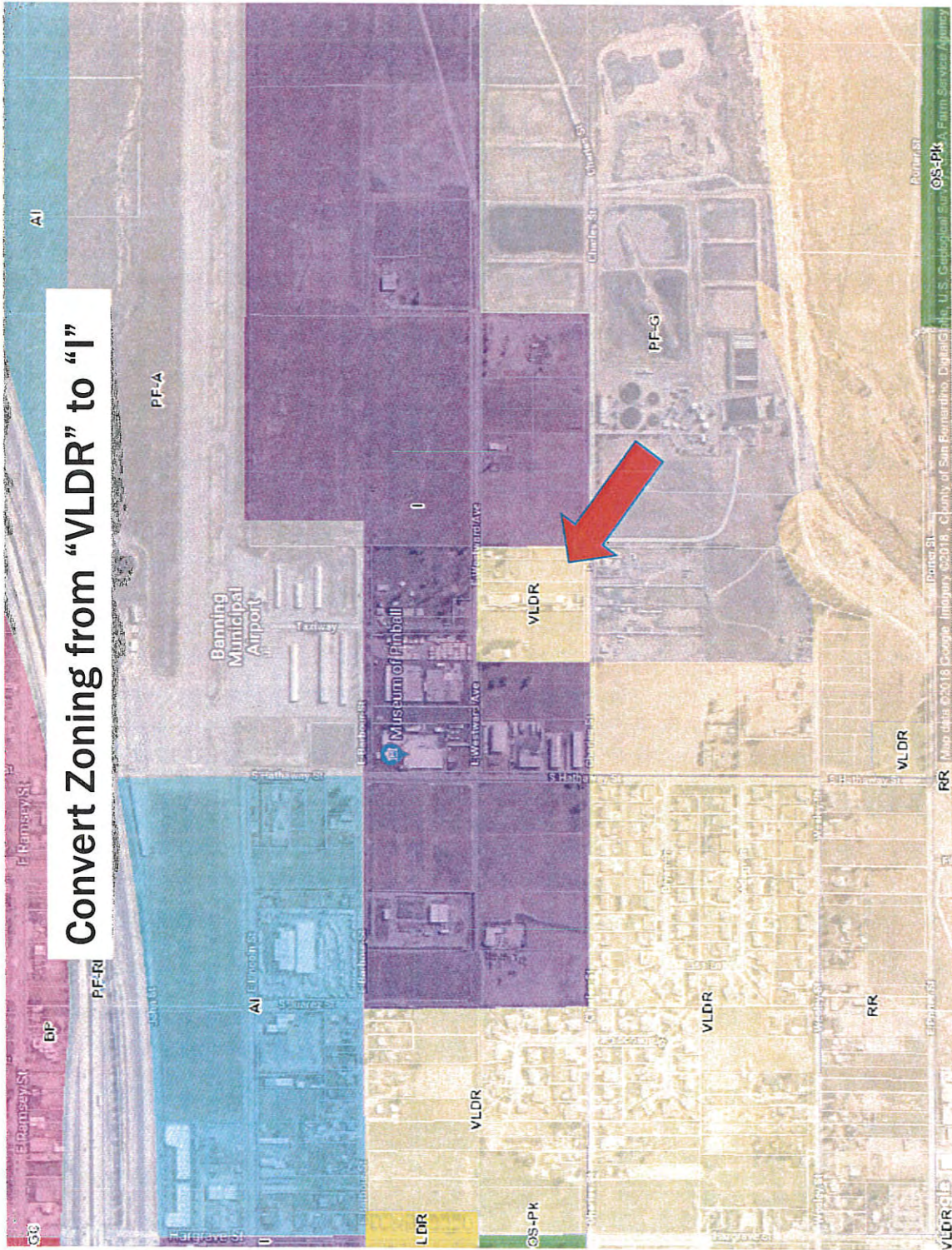
- Request originated from two businesses (Attachment 1)
  - Weeks Group Investment
  - Zenner Performance Meters
- Current zoning restricts expansion of industrial uses in residential zones
- Remedy: General Plan Amendment & Zone Change







Convert Zoning from "VLDR" to "I"





## Fee Waiver Components

- Request to waive City Fees:

• General Plan Amendment	\$6,192
• Environmental Assessment	\$3,124
• Zone Change	<u>\$8,524</u>
	\$17,840

- General Fund Revenue – Fee for Service

- Waiver – Additional charges not covered:

- Technical studies (i.e. traffic impact, CEQA)
- Design Review (PC approval of physical expansion)

## **Procedure – 15.72.050(C)**

1. Written request by beneficiary
2. Must be conducted at a public hearing
3. Fee Waiver (Approval/Denial) – City Council action

## **Required Findings – 15.72.050(B)**

***One or more findings are required before waiver may be granted***

- Fee not required for payment of outstanding debt
- Fee not required for ongoing expenses of any assessment district
- Waiver of fee will not have an adverse impact on City operations
- Waiver does not create a gift of public funds, granting of waiver will derive a benefit of equal or greater value from beneficiary
- Fee not properly collected by the City
- Fee is not properly chargeable to the beneficiary



## Recommended Action

1. Provide guidance to staff regarding supporting language for Findings
2. Request additional information from Requestors relating to development plans, level of detail required
3. Should the fee waiver request lack sufficient facts, findings – direct staff to return a resolution of denial with findings

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**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Laurie Sampson, Acting Deputy City Clerk

**MEETING DATE:** November 13, 2018

**SUBJECT:** Receive and File Contracts Approved Under the City Manager's Signature Authority for the Month of October 2018.

---

**RECOMMENDATION:**

Receive and file Contracts approved under the City Manager's signature authority for the Month of October 2018.

**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:

---

Douglas Schulze  
City Manager



# **ATTACHMENT 1**

## **List of Contracts**

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**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**MEETING DATE:** November 13, 2018

**SUBJECT:** San Gorgonio Pass Regional Focused High-Collision Reduction Campaign

---

**RECOMMENDED ACTION:**

Authorize Mayor Moyer to send letter of support to Department of California Highway Patrol for San Gorgonio Pass Regional Focused High-Collision Reduction Campaign and, authorize Councilmember Art Welch to serve as a City of Banning representative on the San Gorgonio Pass Regional Focused High-Collision Reduction Campaign Task Force.

**BACKGROUND:**

See attached correspondence from Commander M.C. Alvarez, Department of California Highway Patrol, San Gorgonio Pass Area.

**JUSTIFICATION:**

This project will increase enforcement operations and public awareness, in the San Gorgonio Pass Area, to reduce traffic collisions resulting from improper turning, unsafe speed, impaired driving, and other common violations.

**FISCAL IMPACT:**

None.

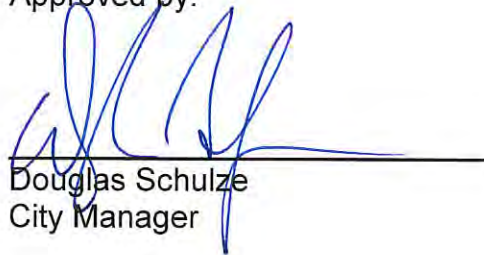
**OPTIONS:**

1. Approve as recommended
2. Do not approve and provide alternative direction. If Council approval is not granted, it will not be possible for the City of Banning to be represented at the December 20, 2018 meeting of the task force.

**ATTACHMENTS:**

1. Invitation letter from Captain M.C. Alvarez
2. Draft letter supporting grant program and authorizing Councilmember Welch to represent the City of Banning on the Task Force

Approved by:



Douglas Schulze  
City Manager

**DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

San Geronio Pass Area  
195 Highland Springs Avenue  
Beaumont, CA 92223  
(951) 769-2000  
(800) 735-2929 (TT/TDD)  
(800) 735-2922 (Voice)



October 22, 2018

File No.: 655.16863.A6855.061.1sttfmtg

Councilman Art Welch  
City of Banning  
99 East Ramsey Street  
Banning, CA 92220

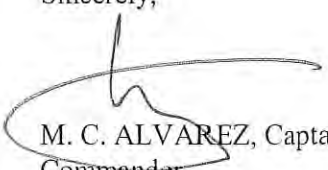
Dear Councilman Welch:

For a number of years, Riverside County continues to experience an increase in the number of fatalities and serious injuries resulting from traffic collisions. To combat this problem, the California Highway Patrol's (CHP) San Geronio Pass Area was recently awarded a 12-month grant from the California Office of Traffic Safety. The grant will fund a regional public education campaign and enhanced enforcement operations with an emphasis on reducing fatalities and injuries resulting from traffic collisions. Program operations started on October 1, 2018, and ends on September 30, 2019.

In addition to enforcement operations, the CHP is establishing a Task Force to identify and address ways to reduce traffic collisions resulting from improper turning, unsafe speed, impaired driving, automobile right-of-way, and wrong side of road violations. I would like to invite you to be a Task Force member for this operation. As a group, we will discuss traffic safety issues and develop proactive strategies to reverse the trend of fatalities and injuries. I appreciate your input and invite you to attend our first meeting for the San Geronio Pass Regional Focused High-Collision Reduction Campaign. If you are unable to attend, I invite you to send a representative from your staff. The Task Force meeting will be held on December 20, 2018, at 10:00 AM at the San Geronio Pass CHP Office located at 195 Highland Springs Avenue, in Beaumont, California. Please contact me directly at [MiAlvarez@chp.ca.gov](mailto:MiAlvarez@chp.ca.gov) to confirm attendance.

Lastly, if you concur, I would like to request a letter of project support and have enclosed sample text. Your support letter may be sent directly to me at your convenience. If we can answer any questions or be of service, please do not hesitate to contact me or Public Information Officer Darren Meyer at (951) 769-2000.

Sincerely,

  
M. C. ALVAREZ, Captain  
Commander  
San Geronio Area







## City of Banning

### Office of the Mayor

November 14, 2018

California Highway Patrol  
San Gorgonio Pass Area  
195 Highland Springs Avenue  
Beaumont, CA 92223-3091

Dear Captain Alvarez:

As the Mayor, representing the City of Banning, I am writing in support of a grant awarded to the California Highway Patrol (CHP) San Gorgonio Pass Area by the California Office of Traffic Safety. The grant provides funding for enhanced law enforcement patrols and a public awareness campaign. The 12-month project will provide motorists with a safer roadway with an emphasis on reducing fatal and injury traffic collisions in Riverside County.

Over the last several years, the CHP San Gorgonio Pass Area jurisdiction has experienced an increase in the number of reportable collisions resulting in fatalities and serious injuries. Grant funding provides for a public awareness campaign aimed at deterring problematic driving behaviors such as improper turning, unsafe speed, impaired driving, automobile right-of-way, and wrong side of road violations. In addition to regular road patrol, the CHP San Gorgonio Pass Area will deploy additional officers on jurisdictional state highways and unincorporated roads in Riverside County.

I am also writing to lend the City of Banning's support to the newly established, San Gorgonio Pass Regional Focus High-Collision Reduction Campaign Task Force. Councilmember Art Welch has volunteered to serve as a City of Banning representative on the Task Force. The Task Force will focus on providing increased awareness of traffic safety problems and help educate all motorists, including pedestrians and bicyclists, travelling in Riverside County.

Thank you in advance for your consideration. If you need further information, please feel free to contact me at (951) 663-5266.

Sincerely,

George Moyer  
Mayor



**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** November 13, 2018

**SUBJECT:** Authorize the City Manager to sign the Notice of Completion for Project No. 2016-04, "Roosevelt Williams Park Improvements" as complete and direct the Acting Deputy City Clerk to record the Notice of Completion

---

**RECOMMENDED ACTION:**

That the City Council accept Project No. 2016-04, "Roosevelt Williams Park Improvements" as complete, authorize the Interim City Manager or her designee to sign the Notice of Completion (NOC) and direct the Deputy City Clerk to record the NOC.

**BACKGROUND:**

On June 27, 2017 the City Council adopted Resolution No. 2017-60 awarding an Agreement to Environmental Construction, Inc. of Woodland Hills, CA in the amount of \$2,585,178 with the inclusion of a 10% contingency for a total budget amount of \$2,843,696 for the completion of Project No. 2016-04, "Roosevelt Williams Park Improvements".

The scope of work under this project included the replacement of the existing playground equipment with new playground equipment; installation of new gazebos; construction of a new multipurpose field; reconstruction of a basketball court; construction of a new basketball court; construction of new concrete walkways; reconstruction and expansion of the northern parking lot; installation of landscaping; installation of lighting; and construction of tenant improvements to the exterior of the existing building, expansion of existing bathrooms and a new bathroom accessible from the inside of the existing building.

**JUSTIFICATION:**

The low bidder, Environmental Construction, Inc. was awarded the contract and completed work on June 14, 2018. Staff has determined that the work is complete. If no liens or claims have been filed within 35 days of the filing of the Notice of Completion with the Riverside County Recorder, the City will release retention and the one year warranty period covering the work will begin.

**FISCAL IMPACT:**

The original construction contract was awarded in the amount of \$2,585,178 and the final contract amount for this project was \$2,669,833.87 which was under the allocated project budget of \$2,843,696 approved under Resolution 2017-60. The project was funded by the CRA Bonds (ROPS 15-16A), Account No. 855-9500-490.90-30.

**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 in the amount of \$133,491.69 to the contractor.

**ATTACHMENTS:**

1. Notice of Completion
2. Project Pictures

Approved by:

  
\_\_\_\_\_  
Douglas Schulze  
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. 2016-04, "ROOSEVELT WILLIAMS PARK IMPROVEMENTS"

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. 2016-04 is hereby accepted by the City of  
19 Banning, pursuant to authority conferred by the City Council this November 13, 2018, and  
20 the grantees consent to recordation thereof by its duly authorized agent.  
21

22 That the OWNER, the City of Banning, and Environmental Construction, Inc., of  
23 Woodland Hills, California, the vendee, entered into an agreement dated July 11, 2017 for  
24 Project No. 2016-04, "Roosevelt Williams Park Improvements".  
25

26 The principal items of work included the replacement of the existing playground equipment  
27 with new playground equipment; installation of new gazebos; construction of a new  
28 multipurpose field; reconstruction of a basketball court; construction of a new basketball  
29 court; construction of new concrete walkways; reconstruction and expansion of the  
30 northern parking lot; installation of landscaping; installation of lighting; and construction  
31 of tenant improvements to the exterior of the existing building, expansion to the existing  
32 bathrooms and a new bathroom accessible from the inside of the existing building located  
33 at Roosevelt Williams Park in City of Banning, CA 92220.  
34

1 That the work was completed on June 14, 2018, for Project No. 2016-04 "Roosevelt  
2 Williams Park Improvements":

3 (1) The Nature of Interest was for park improvements and related modification,  
4 construction and installation completed on June 14, 2018 for Project No. 2016-04,  
5 "Roosevelt Williams Park Improvements".

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

9 (3) That said improvement work was performed at Roosevelt Williams Park  
10 within the City of Banning, California 92220.

11 (4) That the original contractor for said improvement was Environmental  
12 Construction, Inc., State Contractor's License No. 498624.

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

14 (6) The nature of interest is in fee.  
15

16 Dated: November 13, 2018

17 CITY OF BANNING  
18 A Municipal Corporation  
19  
20  
21

22 By \_\_\_\_\_  
23 Douglas Schulze  
24 City Manager  
25  
26

27 APPROVED AS TO FORM:  
28  
29  
30  
31

32 \_\_\_\_\_  
33 Kevin G. Ennis, Esq., City Attorney  
34 Richards, Watson & Gershon  
35



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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.

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2018 by \_\_\_\_\_ proved to me on this basis of satisfactory evidence to be the person(s) who appeared before me.

Notary Public in and for said County  
and State

LAURIE SAMPSON, being duly sworn, deposes and says:

Executed on \_\_\_\_\_, 2018 at Banning, California.

154

# **ATTACHMENT 2**

## Project Pictures



BEFORE PHOTOS





BEFORE PHOTOS





AFTER PHOTOS





AFTER PHOTOS



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**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL  
**FROM:** Douglas Schulze, City Manager  
**PREPARED BY:** Interim Chief of Police Robert Fisher  
**MEETING DATE:** November 13, 2018  
**SUBJECT:** Police Department Statistics for September 2018

---

**RECOMMENDED ACTION:**

This is informational only; receive and file report

**GOAL STATEMENT:**

The purpose of presenting the attached Police Department Statistics is to keep City Council and the public informed of the activities of the department.

**FISCAL IMPACT:**

None

**ATTACHMENTS:**

1. Stats for September 2018

Approved by:

  
\_\_\_\_\_  
Douglas Schulze  
City Manager

# **ATTACHMENT 1**

## **Stats for September 2018**



**BANNING POLICE DEPARTMENT**  
**SEPTEMBER, 2018**

<b>CRIME</b>	<b>Sep-18</b>	<b>Sep-17</b>	<b>% CHGE</b>	<b>YTD-18</b>	<b>YTD-17</b>	<b>% CHGE</b>
<b>PART I CRIMES</b>						
Homicide	1	0	100%	4	2	100%
Rape	0	2	-100%	14	14	0%
Robbery	3	2	50%	20	13	54%
Assaults Agg/Simp	15	12	25%	205	235	-13%
Burglary	8	14	-43%	156	187	-17%
Vehicle Theft	15	18	-17%	86	116	-26%
Larceny	10	14	-29%	165	203	-19%
<b>OTHER</b>						
Narcotics	23	32	-28%	218	281	-22%
DUI	1	1	0%	17	28	-39%
T/C Non-Injury	22	15	47%	173	170	2%
T/C Injury	6	10	-40%	44	44	0%
T/C Fatal	0	0	0%	3	2	50%
Citations	193	193	0%	2155	2019	7%
<b>Total Incidents</b>	<b>2979</b>	<b>3158</b>	<b>-6%</b>	<b>27581</b>	<b>30488</b>	<b>-10%</b>

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## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Maryann Marks, Interim Community Development Director  
Sonia Pierce, Senior Planner  
Laurie Sampson, Acting Deputy City Clerk

**MEETING DATE:** November 13, 2018

**SUBJECT:** Resolution 2018-142, Denying an Application for a Twelve (12) Month Extension for Tentative Tract Map 30906 (TTM 30906), and Making Findings Pursuant to CEQA.

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### **RECOMMENDED ACTION:**

City Council Adopt Resolution 2018-142, Denying an Application for a Twelve (12) Month Extension for Tentative Tract Map 30906 (TTM 30906), and Making Findings Pursuant to CEQA.

### **BACKGROUND:**

On August 24, 2004, the City Council conditionally approved Tentative Tract Map No. 30906, including approval to complete the subdivision in 4 phases, with an expiration date of August 24, 2006. The conditional approval included the provision for 4 phases to complete the subdivision.

Final Tract Map No. 30906-1 for Phase I was filed on March 28, 2006, and in accordance with Subdivision Map Act 66452.6(a)(1), the filing of Final Tract Map No. 30906-1 extended the life of Tentative Tract Map No. 30906 by three (3) years to August 24, 2009;

Subsequent Legislative Extensions automatically extended the expiration date of Tentative Tract Map No. 30906 to August 24, 2016. Specifically, Senate Bill 1185 (Gov. Code, § 66452.21) extended the life of the Map by 12 months to August 24, 2010; Assembly Bill 333 (Gov. Code, § 66452.22) extended the life of the Map by 24 months to August 24, 2012; Assembly Bill 208 (Gov. Code, § 66452.23) extended the life of the



Map by 24 months to August 24, 2014; and Assembly Bill 116 (Gov. Code, § 66452.24) extended the life of the Map by 24 months to August 24, 2016.

In 2016, the City Council approved the first twelve (12) month extension of time for Tentative Tract Map No. 30906 under Government Code Section 66452.6(e) by adoption of Resolution No. 2016-85 (Attachment 4), which extended the life of the Map to August 24, 2017. In 2017, the City Council approved a second twelve (12) month extension of time for Tentative Tract Map No. 30906 under Government Code Section 66452.6(e) by adoption of Resolution No. 2017-81 (Attachment 4), which extended the life of the Map to August 24, 2018.

On July 27, 2018, the Planning Division received an application from the project applicant seeking approval of a third twelve (12) month extension of time for Tentative Tract Map No. 30906 under Government Code Section 66452.6(e).

On October 23, 2018 staff presented a report to Council requesting direction for proceeding with this request. Council declined the extension to Tentative Tract Map 30906 and directed staff to submit a Resolution affirming this decision

**JUSTIFICATION:**

The City Council denied the application for extension for Tentative Tract Map 30906 based on the following finding:

The design of the proposed land division or the type of improvements are now likely to cause serious public health problems in that the developer has left the property in an unsafe state of partial development and disrepair. The prior improvements are damaged or missing substructures and do not meet current utility standards. There are damaged conductors within the street light standards and overall in the equipment is need of assessment as to safety and functionality. There is no confirmation by the developer that the issue will be resolved within the requested one-year extension of time. Continuing to leave the property in the unfinished state is a public health

**FISCAL IMPACT:**

None

**OPTIONS:**

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

**ATTACHMENTS:**

1. Resolution 2018-142

Approved by:

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Douglas Schulze  
City Manager

# **ATTACHMENT 1**

## **Resolution 2018-142**



## RESOLUTION 2018-142

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DENYING AN APPLICATION FOR A TWELVE (12) MONTH EXTENSION FOR TENTATIVE TRACT MAP NO. 30906 (TTM 30906), AND MAKING FINDINGS PURSUANT TO CEQA

**WHEREAS**, an application for an extension of time for Tentative Tract Map No. 30906 was duly filed on July 27, 2018, by:

Project Applicant: Bilberry Banning, LLC

Project Location: Located generally west of Mountain Avenue, east of Highland Home Road, and north of Gilman Street

APNs: 535-020-004, -026, and -029; and 535-030-050 (formerly APNs 535-020-004, -016, and -024, and 535-030-039).

Project Area: 158.5 acres;

**WHEREAS**, on August 24, 2004, the City Council conditionally approved Tentative Tract Map No. 30906, including approval to complete the subdivision in 4 phases, with an expiration date of August 24, 2006;

**WHEREAS**, Final Tract Map No. 30906-1 for Phase I was filed on March 28, 2006, and in accordance with Subdivision Map Act 66452.6(a)(1), the filing of Final Tract Map No. 30906-1 extended the life of Tentative Tract Map No. 30906 by three (3) years to August 24, 2009;

**WHEREAS**, the applicant has failed to complete construction of all improvements under Final Tract Map No. 30906-1 in their entirety and has left partially completed land and street improvements unmaintained for a long period of time;

**WHEREAS**, legislation enacted by the State Legislature, specifically Senate Bill 1185 (Gov. Code, § 66452.21) extended the life of the Map to August 24, 2010, Assembly Bill 333 (Gov. Code, § 66452.22) extended the life of the Map to August 24, 2012, Assembly Bill 208 (Gov. Code, § 66452.23) extended the life of the Map to August 24, 2014, and Assembly Bill 116 (Gov. Code, § 66452.24) extended the life of the Map to August 24, 2016;

**WHEREAS**, On September 27, 2016, the City Council approved the first twelve (12) month extension of time for Tentative Tract Map No. 30906 by adoption of Resolution 2016-85, extending the life of the Map to August 24, 2017;

**WHEREAS**, On August 22, 2017, the City Council approved a second twelve (12) month extension of time for Tentative Tract Map No. 30906 by adoption of Resolution 2017-81, extending the life of the Map to August 24, 2018;

**WHEREAS**, on July 27, 2018, the project applicant timely filed an application seeking a third twelve (12) month extension of time for Tentative Tract Map No. 30906, extending the life of the Map to August 24, 2019;

**WHEREAS**, on October 23, 2018, the City Council held a duly noticed public hearing to consider the proposed extension of time for Tentative Tract Map No. 30906, closed the public hearing, and directed City staff to prepare a resolution denying the proposed additional twelve (12) month extension of time for Tentative Tract Map No. 30906 for the Council's consideration during its next regular City Council meeting date on November 13, 2018; and

**WHEREAS**, on November 13, 2018, the City Council continued and concluded its discussion on the proposed application for an extension of time for Tentative Tract Map No. 30906.

**NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:**

Section 1. California Environmental Quality Act Findings. The City Council of the City of Banning, based on its own independent judgment, does hereby find, determine and declare that the proposed extension of time for Tentative Tract Map No. 30906 (the "Project") is exempt from the requirements of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code, § 21000 *et seq.*) and the State Guidelines (the "CEQA Guidelines") (14 Cal. Code Regs. § 15000 *et seq.*) pursuant to Section 15270(a) of the CEQA Guidelines because CEQA does not apply to projects which a public agency rejects or disapproves.

Section 2. Findings for Denial of Extension of Time for TTM No. 30906. The City Council of the City of Banning does hereby find, determine, and declare that the proposed Tentative Tract Map No. 30906 should be denied because:

(a) The design of the proposed land division or the type of improvements are now likely to cause serious public health problems in that the developer has left the property in an unsafe state of partial development and disrepair. The prior improvements are damaged or missing substructures and do not meet current utility standards. There are damaged conductors within the street light standards and overall in the equipment is need of assessment as to safety and functionality. There is no confirmation by the developer that the issue will be resolved within the requested one-year extension of time. Continuing to leave the property in the unfinished state is a public health and safety concern.



Section 3. Denial of Extension of Time for TTM No. 30906. Based on the foregoing and all evidence in the record, the City Council of the City of Banning hereby denies the application for a twelve (12) month extension of time for Tentative Tract Map No. 30906. Pursuant to Government Code Section 66452.6(e), Tentative Tract Map No. 30906 expired on October 23, 2018.

**PASSED, APPROVED, AND ADOPTED** this 13<sup>th</sup> day of November, 2018.

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George Moyer, Mayor  
City of Banning

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

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

**ATTEST:**

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Laurie Sampson, Acting Deputy City Clerk  
City of Banning, California



**CERTIFICATION:**

I, Laurie Sampson, Acting Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2018-142 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 13<sup>th</sup> day of November, 2018.

AYES:

NOES:

ABSENT:

ABSTAIN:

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Laurie Sampson, Acting Deputy City Clerk  
City of Banning, California

## ORDINANCE 1535

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, MAKING FINDINGS PURSUANT TO CEQA AND ADOPTING ZONING TEXT AMENDMENT 18-97504, AMENDING VARIOUS SECTIONS OF THE CITY'S ZONING ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL CODE) RELATING TO TATTOO ESTABLISHMENTS**

**WHEREAS**, in 2006, the City Council of the City of Banning adopted Ordinance No. 1339, approving Zone Change No. 03-3501 repealing the then existing zoning ordinance and adopting the new Zoning Ordinance that included sign regulations; and

**WHEREAS**, a review of the existing Zoning Ordinance text reveals an opportunity for updates to address resident and business community needs (Zoning Text Amendment 18-97504); and

**WHEREAS**, the City Council is authorized per Chapter 17.116 (Zoning Ordinance Amendments) of the City of Banning Municipal Code to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

**WHEREAS**, on August 1, 2018, the Planning Commission conducted a duly noticed public hearing to consider proposed Zoning Text Amendment 18-97502, which included proposed amendments to zoning regulations pertaining to tattoo establishments, and following receipt of public comments and the close of the public hearing, adopted Planning Commission Resolution No. 2018-11, recommending that the City Council adopt Zoning Text Amendment 18-97502; and

**WHEREAS**, in accordance with Chapter 17.68 (Hearings and Appeals) of the City of Banning Municipal Code and Government Code Sections 65856 and 65090, on July 20, 2018, the City gave public notice, by advertisement in the Record Gazette newspaper, of a public hearing concerning the City Council's consideration of proposed Zoning Text Amendment 18-97502; and

**WHEREAS**, on September 10, 2018, the City Council conducted a duly noticed public hearing to consider proposed Zoning Text Amendment 18-97502, at which interested persons had an opportunity to testify in support of, or opposition to, proposed Zoning Text Amendment 18-97502; and

**WHEREAS**, following the close of the September 10, 2018 City Council public hearing, and in response to public comments made at that meeting, the City Council struck out proposed amendments related to tattoo establishments so as to provide staff time to validate the Planning Commission's approval or disapproval of the proposed amendments related to tattoo establishments; and

**WHEREAS**, City staff subsequently validated by a review of the Planning Commission's proceedings, that the Planning Commission had not taken an action on



August 1, 2018 to exclude the proposed tattoo regulations as presented by staff to the Commission from its recommendation of approval of ZTA 18-97502; and

**WHEREAS**, the proposed amendments related to the tattoo regulations are now being forwarded to the City Council under case number ZTA 18-97504 so as to avoid any potential confusion with the previously approved ordinance.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING DOES ORDAIN AS FOLLOWS:**

**SECTION 1. ENVIRONMENTAL.**

**A. California Environmental Quality Act (CEQA)**

In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed this proposed Zone Text Amendment and has determined that it is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. *Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA.* The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 18-97504 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**B. Multiple Species Habitat Conservation Plan (MSHCP)**

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

**SECTION 2. REQUIRED FINDINGS.**

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zoning Ordinance text amendments meet certain findings prior to approval by the City Council. The City Council hereby makes the following findings, as supported by substantial evidence on the record, including and incorporating all facts and evidence in the staff report and its attendant attachments, in support of the approval of the Zoning Text Amendment 18-97504:

**Finding No. 1:** Proposed Zoning Text Amendment 18-97504 is consistent with the goals and policies of the General Plan.

**Findings of Fact:** Proposed Zoning Text Amendment 18-97504 is consistent with the goals and policies of the General Plan, insofar as the General Plan



designations and zoning classifications within the City will not change, and the text amendments will result in clarifying and promoting the implementation of the goals, policies, and programs of the General Plan. The primary General Plan Land Use Goals state *"A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents"*. The proposed amendments are intended to establish opportunities for area businesses.

**Finding No. 2:** Proposed Zoning Text Amendment 18-97504 is internally consistent with the Zoning Ordinance.

**Findings of Fact:** Proposed Zoning Text Amendment 18-97504 is consistent with the existing provisions of the Zoning Ordinance. The proposed text amendments will provide opportunities consistent with other regulations found within the Zoning Ordinance. Therefore, the proposed text amendments are internally consistent with the Zoning Ordinance.

**Finding No. 3:** The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed the proposed Zoning Text Amendment 18-97504 and has determined that it is exempt from review under CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. *Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA.* The proposed text amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that proposed Zoning Text Amendment 18-97504 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

### **SECTION 3. ENVIRONMENTAL.**

Determination of Exemption from CEQA. In accordance with Public Resources Code Section 21006 and CEQA Guidelines Section 15061, the City Council has reviewed the Planning Division's determination of exemption of the proposed Zoning Text Amendment under case file 18-97502 from review under CEQA pursuant to CEQA Guidelines Section 15061(b)(3), and based on its own independent judgment, concurs in staff's determination

of exemption. The City Council hereby directs the Community Development Director to file a Notice of Exemption in accordance with CEQA.

**SECTION 4. APPROVAL OF ZONING TEXT AMENDMENT 18-97504.**

The City Council of the City of Banning hereby amends Title 17 (Zoning) of the Banning Municipal Code as follows, with strikeouts (formatted as ~~strikeout~~) denoting existing language to be removed and underlining (formatted as underline) denoting new language to be added:

A. **Tattoo Establishments.** The definitions of “body piercing parlor” and “tattoo parlor” in Section 17.04.070 (Definitions) of Chapter 17.04 (Basic Provisions) of Division I (General Provisions) of Title 17 (Zoning) of the Banning Municipal Code are hereby amended to read as follows:

“**Body Piercing Studio Parlor** ~~means any business or premises dedicated to the piercing, puncture or perforation of human skin or tissue, or the insertion of jewelry or other objects into or under the skin or tissue, for decorative, nonmedical purposes; the term "body piercing studioparlor" does not include businesses that offer ear-only piercing as a service that is secondary to other business services, or acupuncture clinics.~~”

“**Tattoo ParlorStudio** means any business or premises dedicated to the act or process of marking or coloring the skin of any person by the insertion of pigment under or in the skin or by the production of scars. The term “~~tattoo parlor~~studio” does not include businesses that offer permanent make-up as a service that is secondary to other business services.”

B. **Tattoo Establishments.** The following service uses listed in Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Uses) of Section 17.12.020 (Permitted, Conditional and Prohibited Uses) of Article I (General Provisions) of Chapter 17.12 (Commercial and Industrial Districts) of Division II (Land Use Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to read as follows:

**Table 17.12.020**

**Permitted, Conditional and Prohibited Commercial and Industrial Uses**

Zone	DC	GC	HSC	PO	I	AI	BP	IMR
Services								



Tattoo and Body Piercing Parlors <u>Studios</u>	X <u>C</u>	C	C	C	C	C	X	X
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C. **Tattoo Establishments.** The following use listed in Table 17.12.050 (Use Specific Development Standards) of Section 17.12.050 (Use Specific Standards) of Article II (Land Use District Development Standards) of Chapter 17.12 (Commercial and Industrial Districts) of Division II (Land Use Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to read as follows:

**Table 17.12.050**

**Use Specific Development Standards**

Zone	DC	GC	HSC	PO	I	AI	BP	IMR
"Q. Tattoo and Body Piercing Parlors <u>Studios</u>	<u>*</u>	*	*	*	*	**		

D. **Tattoo Establishments.** Subsection R. (Tattoo and Body Piercing Parlors) of Section 17.12.050 (Use Specific Standards) of Article II (Land Use District Development Standards) of Chapter 17.12 (Commercial and Industrial Districts) of Division II (Land Use Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to read as follows:

"R. Tattoo and Body Piercing ParlorsStudios. As indicated in table 17.12.020, a conditional use permit is required for tattoo and/or body piercing businesses. The following standards shall apply:

- ~~1. The business shall not be located within one thousand feet of any other tattoo and/or body piercing parlor as measured from any point from the outer boundaries of the property containing the business.~~
- ~~2. The business shall not be located within five hundred feet of any adult-oriented business as measured from any point from the outer boundaries of the property containing the business.~~
- ~~3. The business shall not be located within five hundred feet of any business selling alcoholic beverages, as measured from any point from the outer boundaries of the property containing the business.~~



- ~~4. The business shall not be located within one hundred feet of any residential use as measured from any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.~~
- ~~5. The business shall not be located within six hundred feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.~~
16. The business shall maintain in a sanitary condition at all times both the facilities and employees of the business. All walls, ceilings, floors, furnishings, and instruments used for tattoo and piercing shall be kept in good repair, and maintained in a clean and sanitary condition. Employees shall be required to wash their hands prior to any contact with customers.
27. Officers of the police department, code enforcement division, and the fire department shall have the right to enter any tattoo and body piercing businesses during regular business hours to make reasonable inspection to ascertain whether the provisions of this chapter are being complied with, provided reasonable and normal business operations shall not be interfered with by said inspection.
38. The hours of operation shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.
49. All activities shall be located indoors."

#### **SECTION 5. Severability.**

If any section, subsection, sentence, clause, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

#### **SECTION 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 of and the proceedings of the City Council at which the same is passed and adopted. This Ordinance shall be in full

force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California.

**PASSED, APPROVED, AND ADOPTED** this 13th day of November, 2018.

---

George Moyer, Mayor  
City of Banning

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

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

**ATTEST:**

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Laurie Sampson, Acting Deputy City Clerk  
City of Banning, California

**CERTIFICATION:**

I, Laurie Sampson, Acting Deputy City Clerk of the City of Banning, California, do hereby certify that Ordinance 1535 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 23rd day of October, 2018, and was duly adopted at a regular meeting of said City Council on the 13th day of November, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Laurie Sampson, Acting Deputy City Clerk  
City of Banning, California



## ORDINANCE 1527

### **AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, ADDING CHAPTER 5.33 TO THE BANNING MUNICIPAL CODE RELATED TO THE ISSUANCE OF CANNABIS RETAILER REGULATORY PERMITS, AND MAKING REQUIRED FINDINGS UNDER CEQA**

WHEREAS, on October 9, 2015 Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State regulatory and licensing scheme for commercial medical cannabis businesses.

WHEREAS, on November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA made it lawful under State and local law for persons 21 years of age or older to possess and cultivate limited quantities of cannabis for personal use. The AUMA also established a State regulatory and licensing scheme for commercial adult-use cannabis businesses.

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medicinal and adult-use cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether cannabis businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under the MAUCRSA including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more businesses licensed by the State, within that local jurisdiction.

WHEREAS, the City Council finds that unregulated cannabis retail uses have the potential to adversely affect the public health and safety of Banning residents and those engaged in retail cannabis activity. The establishment of a regulatory permitting process for retail cannabis uses will substantially reduce this threat to the public health and safety.

WHEREAS, the City Council desires to establish reasonable regulations regarding the operation of retail cannabis businesses that are intended to address the potential negative impacts of unregulated cannabis businesses.

WHEREAS, the proposed Municipal Code amendments contained in this ordinance are consistent with the City's General Plan. The proposed Municipal Code Amendments are consistent with the Economic Development Element goal of creating a balanced, broadly-based economy that provides a full range of economic and



employment opportunities, while maintaining high standards of development and environmental protection. The Municipal Code Amendments are also consistent with the following General Plan Policies:

Policy 1 - General Plan land use designations and allocations will facilitate a broad range of residential, commercial, industrial and institutional development opportunities.

Policy 2 - The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues.

WHEREAS, on October 23, 2018 the City Council considered this Ordinance at a regular meeting of the City Council at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters.

WHEREAS, on October 23, 2018, the City Council considered Ordinance 1531 establishing zoning regulations and procedures for the issuance of cannabis conditional use permits for cannabis retailers in the City. This Ordinance and Ordinance 1531 will only go into effect if the Banning voters approve a tax measure imposing taxes on these facilities.

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. CEQA**

The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a Project as defined by the CEQA Guidelines Section 15378. Adoption of the Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to the Ordinance will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

The City Council further finds and determines that this Ordinance is exempt from review under the CEQA and the State CEQA Guidelines Section 15061(b)(1) which exempts a project from CEQA if the project is exempt by statute. Business and Professions Code section 26055(h) provides that Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in retail cannabis activity. Pursuant to that exemption, the City is providing that discretionary review for



applications for cannabis conditional use permits will be required to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

**SECTION 2.** Chapter 5.33 (Cannabis Retailer Regulatory Permits) is hereby added to Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to read as follows:

### **“Chapter 5.33 Cannabis Retailer Regulatory Permits**

#### **Sections**

5.33.010	Definitions.
5.33.020	Cannabis Retailer Regulatory Permit Required.
5.33.030	Cannabis Retailer Regulatory Permit - Fees and Terms.
5.33.040	Cannabis Retailer Regulatory Permit Application Requirements.
5.33.050	Additional Application Requirements.
5.33.060	Decision on Cannabis Retailer Regulatory Permit.
5.33.070	Approval of Cannabis Retailer Regulatory Permit With Conditions.
5.33.080	Cannabis Retailer Regulatory Permit Renewal.
5.33.090	Premises.
5.33.100	Notification of Criminal, Civil or Administrative Action.
5.33.110	Notification of Theft, Loss, or Criminal Activity.
5.33.120	Suspending, Modifying, or Revoking Permits.
5.33.130	Initiation of Discipline and Appeals.
5.33.140	Non-Disciplinary Modification of Cannabis Business Permit.
5.33.150	Notification of Changes.
5.33.160	Remedies and Public Nuisance.
5.33.170	Joint and Several Liability.

#### **5.33.010 Definitions**

For the purpose of this Chapter, the following words and phrases shall be defined as follows:

A. “Applicant” means an owner applying for a cannabis regulatory permit pursuant to this Chapter.

B. “Bureau” means the Bureau of Cannabis Control within the California Department of Consumer Affairs.

C. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other



compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

D. "Cannabis business" means a cannabis retailer.

E. "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.

F. "Cannabis Retailer" means a cannabis business that engages in the retail sale and delivery of cannabis or cannabis products to customers.

G. "City" means the City of Banning.

H. "City Manager" means the City Manager or his/her designee.

I. "Convicted" or "conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere was entered, but does not include any plea, verdict, or conviction that is expunged pursuant to California law or a similar federal or state law where the expungement was granted.

J. "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products, or engaging in any other cannabis activity that requires a state license issued by a licensing authority.

K. "Financial interest" shall have the meaning set forth in Section 5004 of Title 16 of the California Code of Regulations, as the same may be amended from time to time.

L. "Licensing authority" means the Bureau of Cannabis Control; CalCannabis Cultivation Licensing, a division of the California Department of Food and Agriculture (CDFA); the California Department of Public Health's Manufactured Cannabis Safety Branch; or any other state cannabis licensing authority.

M. "Owner" means any of the following:

1. A person with an aggregate ownership interest of 20 percent or more in the person applying for a permit or a permittee, unless the interest is solely a security, lien, or encumbrance.

2. The chief executive officer of a nonprofit or other entity.

3. A member of the board of directors of a nonprofit.

4. An individual who will be participating in the direction, control, or management of the person applying for a permit. An owner who is an individual participating in the direction, control, or management of the commercial or retail cannabis business includes any of the following:

a) A partner of a cannabis business that is organized as a partnership.

b) A member of a limited liability company of a cannabis business that is organized as a limited liability company.

c) An officer or director of a cannabis business that is organized as a corporation.

N. "Permit" means a Cannabis Retailer Regulatory Permit issued under this Chapter.

O. "Permittee" means any person holding a Permit under this Chapter.

P. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, non-profit, or any other group or combination acting as a unit, and the plural as well as the singular.

Q. "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial or retail cannabis activity will be or is conducted.

R. "Significant discrepancy" means a difference in actual inventory compared to records pertaining to inventory of at least one thousand dollars (\$1,000). For purposes of determining a discrepancy, the acquisition price of the cannabis goods shall be used to determine the value of cannabis goods in a permittee's inventory.

#### **5.33.020 Cannabis Regulatory Permit Required.**

A. No person shall establish, or operate a cannabis business within the City unless the person has:

1. A valid business license;
2. A valid permit issued by the City pursuant to this Chapter;
3. A valid conditional use permit issued pursuant to Chapter 17.54;

and

4. A valid license issued by the Bureau to conduct the specific commercial cannabis activity that is being conducted on the premises.



B. The City Manager, in consultation with the Chief of Police, shall evaluate and issue or deny a permit within forty-five (45) days of receipt of a completed application.

C. Any permit that is issued shall not go into effect unless a conditional use permit is also issued by the City Council pursuant to Chapter 17.54 of the Banning Municipal Code.

**5.33.030 Cannabis Regulatory Permit – Fees and Term.**

A. No permit shall be issued unless the applicant pays the nonrefundable application fee and a nonrefundable permit fee in amounts to be established by resolution of the City Council.

B. A permit issued pursuant to this Chapter is valid for a term of one (1) year from the date of issuance. Renewal terms shall not exceed one (1) year.

**5.33.040 Cannabis Regulatory Permit Application Requirements.**

A. Each cannabis business shall obtain a separate permit. Permits are nontransferable.

B. An owner of a cannabis business may apply for a permit or permit renewal by filing an application with the City Manager. Only an owner of a cannabis business may submit an application for a permit or permit renewal.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a permit or permit renewal.

D. The application shall be on a form approved by the City Manager and shall include, but not be limited to, the following:

1. The type of cannabis business the applicant seeks to operate in the City, and a description of the commercial cannabis activity that will be conducted on the premises.

2. Payment of a nonrefundable application fee in an amount to be established by resolution of the City Council.

3. A description of the statutory entity or business form that will serve as the legal structure for the applicant; a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement; and the name and address of its agent for purposes of service of process.

4. A list of every fictitious business name the applicant is operating under.



5. If the permit is to be held in the name of a business entity, the owner shall also provide the legal name of the business.

6. The current name and primary and secondary telephone numbers and email addresses of at least one twenty-four (24) hour on-call manager to address and resolve complaints and to respond to operating problems or concerns associated with the cannabis business.

7. If applicable, the business trade name ("DBA") of the applicant.

8. A list of the license types and the license numbers issued by any licensing authority that the applicant holds, including the date the license was issued, the date the license will terminate and the licensing authority that issued the license.

9. Whether the applicant, or any owners, has been denied a license or has had a license suspended or revoked by any licensing authority. The applicant shall identify the type of license applied for, the name of the licensing authority that denied the application, and the date of denial.

10. The assessor's parcel number and the physical address of the premises where business will be conducted, the telephone number for the premises, and the website address and email address of the applicant's business. If the business will be conducted on a lot that is vacant at the time that the application is submitted, then the applicant shall amend the application at such time that a physical address and telephone number is issued for the cannabis business.

11. The cannabis business' federal employer identification number.

12. The physical address of any other premises owned or operated by the applicant and a brief summary of the business operations at each premises.

13. A complete list of every individual that has a financial interest in the cannabis business.

14. A complete list of every owner of the cannabis business. Each individual named on this list shall submit the following information:

- a) The full name of the owner.
- b) The owner's title within the applicant entity.
- c) The owner's date of birth and place of birth.
- d) The owner's social security number or individual taxpayer identification number.
- e) The owner's mailing address.
- f) The owner's home, business, or mobile telephone number and email address.
- g) The owner's current employer.

h) The owner's percentage of ownership interest held in the applicant entity.

i) Whether the owner has an ownership or a financial interest in any other cannabis business licensed by a licensing authority.

j) A copy of the owner's government-issued identification that includes the name, date of birth, physical description and picture of the owner.

k) A copy of the DOJ and NCIC fingerprint background check for each owner procured through the Banning Police Department.

l) If applicable, a copy of any certificate of rehabilitation issued under Penal Code section 4852.01 or dismissal issued pursuant to Penal Code section 1203.4 or 1203.41.

m) If applicable, a detailed description of any suspension or revocation of a cannabis related license or sanctions for unlicensed or unlawful cannabis activity by a state or local governmental agency against the applicant or any of its owners or any business entity in which the applicant or any of its owners was an owner or officer within the five (5) years immediately preceding the date of the application.

n) If applicable, a detailed description of any civil and/or criminal suit and/or judgment relating to unlawful cannabis activity against the applicant or any of its owners or a business entity in which the applicant or any of its owners was an owner or officer within the five (5) years immediately preceding the date of the application.

15. A list of all owners, managers, and employees that are authorized to carry concealed weapons.

16. A written, notarized statement from the owner of the property where the cannabis business will operate evidencing unqualified consent to the applicant operating a cannabis business on the property. The statement must specify the street address (unless the property is a vacant lot) and assessor's parcel number for the premises. The statement shall also contain the name, business address, email address and telephone number of the property owner(s) (whether business entity or individual). If applicable, a copy of the rental agreement shall also be provided.

17. If the applicant is the landowner upon which the premises is located, a copy of the title or deed to the property.

18. Evidence that the cannabis business will be compliant with the location restrictions set forth in Business and Professions Code section 26054(b) and the zoning restrictions set forth in Title 17 of the Banning Municipal Code.

19. A premises diagram which meets the requirements set forth in Section 5006 of Title 16 of the California Code of Regulations, as the same may be amended from time to time.



20. A detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the premises of the cannabis business. The security plan must be prepared by a licensed security company or individual licensed by the state. The license number shall be on the face of the security plan.

21. A detailed plan describing the air treatment system, or other methods which will be implemented to completely prevent odors generated from cannabis from being detected outside the buildings on the cannabis business site.

22. The proposed hours of operation.

23. Authorization and consent for City staff and the Police Department to seek verification of the information contained within the application.

24. An agreement whereby the applicant:

a) Releases the City of Banning, its agents, officers, elected officials, employees and attorneys, from any and all claims, injuries, damages or liabilities of any kind arising from any repeal or amendment of this Chapter or any other provision of the Banning Municipal Code, and any arrest or prosecution of the applicant or its managers, agents, employees, members or volunteers for violation of state or federal laws; and

b) Defends, indemnifies and holds harmless the City of Banning, and its agents, officers, elected officials, employees, and attorneys from and against any and all claims or actions brought by adjacent or nearby property owners or any other parties for any damages, injuries or other liability of any kind arising from operations at the cannabis business.

25. Attestation to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact, whether intentional or not, is cause for rejection of this application, denial of the permit, or revocation of a permit issued.

D. Nothing in this section is intended to limit the City Manager's ability to request additional information the City Manager deems necessary or relevant to determining an applicant's suitability for a permit or renewal of a permit. An applicant shall provide any additional information requested by the City Manager no later than seven days after the request, unless otherwise specified by the City Manager.

#### **5.33.050 Additional Application Requirements**

In addition to requirements set forth in Section 5.33.040 above, an application shall also include the following, as applicable:

A. A detailed description of all products to be sold on the premises.

B. A written description and map of all delivery areas.



C. A description of the vehicles that will be used to deliver cannabis and cannabis goods including the make, model, and license plate number of the vehicle(s), and a description of how the cannabis and cannabis goods will be stored in the vehicle(s).

#### **5.33.060 Decision on Cannabis Regulatory Permit.**

A. The City Manager, in consultation with the Police Chief, shall evaluate the application and determine whether to approve or deny the permit or permit renewal application. The City Manager shall deny a permit application or the renewal of a permit application if he or she determines that one or more of the following conditions exist:

1. The applicant has not paid all fees required for consideration of the application.

2. The application is incomplete, filed late, or is otherwise not responsive to the requirements of this Chapter.

3. The application contains a false or misleading statement or omission of a material fact.

4. The applicant, or any owner or person with a financial interest in the cannabis business, is not at least twenty-one (21) years old.

5. The applicant, or any owner or person with a financial interest in the cannabis business, has unpaid and overdue administrative penalties imposed for violations of the Banning Municipal Code.

6. The applicant, or any owner or person with a financial interest in the cannabis business, has an unpaid civil judgment imposed for violation(s) of the Banning Municipal Code.

7. The applicant, or any owner or person with a financial interest in the cannabis business is delinquent on any fee, charge for service or tax levied by the State of California or the City.

8. The applicant, or any owner or person with a financial interest in the cannabis business, has, within the five (5) years preceding the date the application is filed with the City Manager, been (1) convicted of engaging in unlawful commercial cannabis activity, (2) issued an uncontested administrative citation by a city, county, or city and county for engaging in unlawful cannabis-related activity, or (3) been the subject of a lawsuit for engaging in unlawful cannabis-related activity in which the applicant or owner was not the prevailing party.

9. The applicant, or any owner or person with a financial interest in the cannabis business, has been denied a license or permit or other authorization to engage in commercial cannabis activity by a state or local licensing or permitting authority.



10. The applicant, or any owner or person with a financial interest in the cannabis business is employed by the City's police department or the City's Community Development Department.

11. The applicant, or any of owner or persons with a financial interest in the cannabis business, has been convicted of any crime set forth in Business and Professions Code section 26057(b)(4), Fish and Game Code sections 12025 or 12025.1, Penal Code section 186.22 or any other offense which is substantially related to the qualifications, functions, or duties of the cannabis business for which application is made. In determining whether such offense is "substantially related," the City Manager shall consult with the City Attorney and thereafter apply the analysis set forth in section 5017 of Title 16 of the California Code of Regulations, as the same may be amended from time to time.

12. The premises or the operation of the applicant's cannabis business, as described in its application, would fail to comply with any provision of the Banning Municipal Code, or any state law or regulation.

13. For permit renewal applications, the premises is substantially different from the diagram submitted by the applicant, in that the size, layout, location of common entryways, doorways or passage ways, means of public entry or exit, or limited access areas within the premises is not the same.

14. Operation of the cannabis business in the manner proposed poses a threat to the public health, safety or welfare, or violates any provision of this Chapter.

B. If none of the above-referenced conditions exist, the City Manager shall approve the permit application. If a permit application is approved, but a cannabis retailer conditional use permit pursuant to Chapter 17.54 is not approved within one year from the issuance of a permit under this chapter, the permit issued under this chapter shall be void.

C. Within sixty (60) days of receiving a completed application for a permit, the City Manager shall notify the applicant in writing whether the permit application is approved or denied. If the City Manager denies the permit, the notice of denial shall set forth the reasons for denial and advise the applicant of the right to contest the denial pursuant to the procedures set forth in Section 5.33.130. Any notice required pursuant to this subsection shall be sent by certified mail, return receipt requested.

#### **5.33.070 Approval of Cannabis Regulatory Permit with Conditions.**

A. Upon approval of a permit or renewal of a permit, the City Manager may impose conditions in excess of the requirements set forth in this Chapter including, but not limited to, conditions relating to the operation of any cannabis business and restrictions relating to the deployment or use of the types of equipment used on the premises.



B. During the term of any permit, the City Manager may impose additional conditions on a permit when reasonably necessary to abate a violation of the Banning Municipal Code or to protect the public health, safety or welfare.

C. Review of any decision by the City Manager to impose additional conditions on a permit pursuant to this section shall be pursuant to Section 5.33.130.

#### **5.33.080 Cannabis Regulatory Permit Renewal.**

A. To renew a permit, a completed permit renewal form, payment of the permit renewal application fee, payment of the permit fee, and, if applicable, the late fee required by subsection D of this section shall be received by the City no earlier than sixty (60) calendar days before the expiration of the permit and no later than 5:00 p.m. on the last business day before the expiration of the permit. Failure to receive a notice for permit renewal does not relieve a permittee of the obligation to renew all permits as required.

B. An application for a permit renewal shall contain the following:

1. The name of the permittee. For a permittee who is a business entity, the permittee shall provide the legal business name of the applicant.
2. The permit number and expiration date.
3. The permittee's address of record and premises address.
4. An attestation that all information provided to the City in the original application for a permit is accurate and current.

C. In the event the permit is not renewed prior to the expiration date, the permittee shall not engage in commercial cannabis activity until the permit is renewed.

D. A permittee may submit a permit renewal application up to thirty (30) calendar days after the permit expires. In addition to the application fee for renewal of the permit, the permittee submitting a renewal application pursuant to this subsection shall pay a late fee in an amount established by resolution of the City Council. The payment of a late fee shall not be grounds for a defense against prosecution or enforcement of the Banning Municipal Code on the basis that the permittee operated a cannabis business without a valid or unexpired permit nor shall it be considered as a setoff to any assessment, fine, penalty or recoupment of costs of enforcement attributable to said violation.

E. Review of any decision by the City Manager to deny a request to renew a permit shall be pursuant to Section 5.33.130.

#### **5.33.090 Premises.**



A. A permittee shall not, without the prior written approval of the City Manager, make a physical change, alteration, or modification of the premises that alters the premises or the use of the premises from the premises diagram filed with the permit application. Material or substantial changes, alterations or modifications requiring approval include, but are not limited to, the removal, creation, or relocation of a common entryway, doorway, passage, or a means of public entry or exit, when such common entryway, doorway or passage alters or changes limited-access areas within the premises.

B. A permittee whose premises is to be materially or substantially changed, modified, or altered is responsible for filing a request for premises modification with the City Manager. The request shall be in writing and include:

1. A new premises diagram that conforms to the requirements set forth in Section 5006 of Title 16 of the California Code of Regulations.

2. A fee in an amount to be established by resolution of the City Council.

3. Any additional documentation or information that the City Manager deems necessary to consider the request.

C. A permittee shall not sublet the premises.

#### **5.33.100 Notification of Criminal, Civil or Administrative Action.**

A. A permittee shall ensure that the City Manager is notified in writing of the criminal conviction of a permittee, owner, or employee or when a permittee, owner, or employee has been charged with a criminal offense. Notice shall either be by mail or electronic mail and shall occur within forty-eight (48) hours of the conviction or charge. The written notification shall include the date of conviction or charge, the court docket number, the name of the court in which the permittee was convicted or charged, and the specific offense(s) for which the permittee was convicted or charged.

B. A permittee shall ensure that the City Manager is notified in writing of a civil penalty or judgment rendered against the permittee or any owner either by mail or electronic mail, within forty-eight (48) hours of delivery of the verdict or entry of judgment, whichever is earlier. The written notification shall include the date of verdict or entry of judgment, the court docket number, the name of the court in which the matter was adjudicated, and a description of the civil penalty or judgment rendered against the permittee.

C. A permittee shall ensure that the City Manager is notified in writing of the revocation or suspension of a license or other authorization for a cannabis business issued by a licensing authority within forty-eight (48) hours of receiving notice of the revocation. The written notification shall include the name of the licensing authority involved, a written explanation of the proceeding or enforcement action, and the specific violation(s) that led to revocation or suspension.



#### **5.33.110 Notification of Theft, Loss, or Criminal Activity.**

A. A permittee shall notify the City Manager and the Chief of Police within twenty-four (24) hours of discovery of any of the following situations:

1. The permittee discovers a significant discrepancy in its inventory.
2. The permittee becomes aware of, or has reason to suspect, diversion, theft, loss or any other criminal activity pertaining to the operations of the permittee by any owner, person with a financial interest in the cannabis business, employee, agent or volunteer of the cannabis business or by any third party.
3. The permittee becomes aware of, or has reason to suspect, any breach of security.

B. The notification required by this Section shall be in writing and include the date and time of discovery of the occurrence of the theft or loss, the date of the occurrence of the theft or loss and a description of the incident including, when applicable, the items that were taken or lost.

#### **5.33.120 Suspending, Modifying, or Revoking Permits.**

A. The City Manager may suspend, modify, further condition or revoke any permit pursuant to the provisions of this Chapter for any of the following reasons:

1. The permittee, or any of its owners, has violated a term or condition of its permit issued pursuant to this Chapter or a term or condition of a license issued by a licensing authority.
2. The permittee, or any of its owners, has violated the Banning Municipal Code or the laws or regulations of the state.
3. The permittee or any other person performed work as an employee or volunteer or acquired a financial interest in the applicant as an owner without first undergoing fingerprinting and a DOJ/NCIC background check.
4. The permittee failed to pay a fine or administrative penalty when due.
5. The permittee failed to take reasonable steps, as defined in Section 5808 of Title 16 of the California Code of Regulations, as the same may be amended from time to time, to correct nuisance conditions on the premises, including the immediately adjacent area that is owned, leased, or occupied by the permittee, within a reasonable time after receipt of notice to abate the condition.
6. The permittee knowingly engaged in the illegal sale, or negotiations for the sale, of controlled substances, as defined in Section 5805 of Title 16 of the



California Code of Regulations, upon the premises. Successive sale, or negotiations for sale, over any continuous period of time shall be deemed evidence of permission.

B. A permittee whose permit has been suspended shall conspicuously display a notice on the exterior of the permittee's premises for the duration of the suspension, and ensure that the notice remains continuously in place for the time specified. The notice shall be in at least twenty-four (24) point type and provide as follows:

#### **NOTICE OF SUSPENSION**

THE CANNABIS RETAILER REGULATORY PERMIT ISSUED FOR THIS PREMISES HAS BEEN SUSPENDED FOR VIOLATION OF THE BANNING MUNICIPAL CODE

C. A permittee whose permit has been revoked shall conspicuously display a notice on the exterior of the premises indicating that the permit has been revoked. The notice shall remain continuously on the premises for at least fifteen (15) calendar days. The notice shall be in at least twenty-four (24) point type and provide as follows:

#### **NOTICE OF REVOCATION**

THE CANNABIS RETAILER REGULATORY PERMIT ISSUED FOR THIS PREMISES HAS BEEN REVOKED FOR VIOLATION OF THE BANNING MUNICIPAL CODE

D. Action taken by the City Manager with respect to the suspension, modification, or revocation of a cannabis regulatory permit shall be final and conclusive. Any permit aggrieved by the suspension, modification or revocation of a cannabis regulatory permit may obtain review of such decision by appeal to the City Council pursuant to Section 5.33.130.

#### **5.33.130 Initiation of Discipline and Appeals.**

A. The City Manager may initiate suspension or revocation proceedings or impose additional conditions on a permittee by sending written notice to the permittee of the disciplinary action and grounds for the action by certified mail return receipt requested, to the permittee's business address, as set forth in the permit. The notice shall inform the permittee of its right to appeal the determination of the City Manager by sending written notice of appeal and the grounds for such appeal to the City Manager no later than ten (10) calendar days after the date in which the notice of suspension, revocation or intention to impose additional conditions was mailed. Failure to timely appeal shall result in a forfeiture of the right of appeal, and the determination of the City Manager shall be final.

B. If an application for a permit was denied by the City Manager, the applicant shall have ten (10) calendar days from the date the notice of the disposition was deposited in the mail within which to appeal the denial of the application to the City



Council. If the tenth calendar day falls on a day the City is closed, the time shall be extended to the next business day.

C. The appeal shall be submitted in writing to the City Clerk. Upon receipt of a timely notice of appeal, that is accompanied by the appropriate filing fee in an amount set by resolution of the City Council, the City Clerk shall set the matter for hearing. Unless continued for good cause demonstrated, appeals shall be heard by the City Council within sixty (60) calendar days of the date notice of appeal was received by the Clerk. If an appeal is timely and properly filed together with the filing fee, any suspension or revocation is stayed during the pendency of the appeal.

D. If the appeal is timely and properly filed together with the filing fee, the City Clerk shall mail notice of the date, time and place of a hearing before the City Council to the applicant at least ten (10) days prior to the hearing. The hearing shall be commenced at the earliest possible date authorized by law.

E. After considering all of the testimony and evidence submitted at said hearing, the City Council shall decide the appeal based upon a preponderance of the evidence and issue written findings of fact no later than ten (10) days after the hearing. Hearings before the City Council shall not be bound by formal rules of evidence. Hearsay evidence may be received; however, in no event shall a decision be based solely on hearsay evidence.

F. Within five (5) business days after the City Council acts on the appeal, the City Clerk shall send to the applicant, by certified mail, return receipt requested, written notice of the disposition of the appeal.

G. Any permittee aggrieved by the decision of the City Council may obtain review of the order within ninety (90) days of notice by filing with the Riverside County Superior Court a petition for review pursuant to California Code of Civil Procedure section 1094.5. For purposes of this subsection, notice shall be the date that the decision of the City Council is mailed by first-class mail, postage prepaid, with a certificate of mailing.

#### **5.33.140 Non-Disciplinary Modification of Cannabis Regulatory Permit.**

A. The City Manager may eliminate, modify or add to any condition imposed on a permittee. The elimination of a condition or conditions may only be approved by the City Manager when he or she deems the condition not be necessary to protect the health, safety or welfare of the public. The modification or addition of conditions may be approved by the City Manager when he or she deems such action reasonably necessary to protect the health, safety or welfare of the public or to otherwise secure compliance with the requirements set forth in the Banning Municipal Code. The action taken on the permit and the grounds for such action shall be made in writing and sent by certified mail return receipt requested to the permittee's business address, as set forth in the permit.



B. The action by the City Manager taken pursuant to this Section may be made in conjunction with disciplinary action, in lieu of disciplinary action, or independent of disciplinary action.

C. Any person aggrieved by the action of the City Manager may appeal the decision pursuant to the procedures set forth in Section 5.33.130.

#### **5.33.150 Notification of Changes.**

A. A permittee shall notify the City Manager in writing within ten (10) calendar days of any change to any item listed in the application. The notification shall be signed by an owner.

B. No person or entity may gain a financial interest in the permittee if said person or entity is determined by the City Manager to have a disqualifying conviction within the meaning of Business and Professions Code section 26057 or is otherwise barred by reason of this Chapter.

C. If one of more of the owners of a permittee change, a new permit application and fee shall be submitted to the City within ten (10) business days of the effective date of the ownership change. A change in ownership occurs when the person receiving its interest in the cannabis business meets the definition of an owner. A change in ownership does not occur when one or more owners leave the business by transferring their ownership interest to the other existing owner(s).

#### **5.33.160 Remedies and Public Nuisance.**

A. The procedures set forth in this Chapter shall be cumulative and in addition to any other procedure or legal remedy provided for in the Banning Municipal Code or the laws of the state. Nothing in this Chapter shall be deemed to prevent the City from commencing alternative administrative, civil or criminal proceedings. Any violation of this Chapter may be subject to injunctive relief, revocation of any permit issued by the City, disgorgement and payment to the City of any and all money unlawfully obtained, costs of abatement, investigation and attorney fees or any other relief or remedy available at law or equity.

B. The City Attorney is authorized to institute administrative action pursuant to Chapters 1.20 through 1.28 of the Banning Municipal Code and to institute civil or criminal action in the Riverside County Superior Court in order to enforce the provisions of this Chapter and those provisions set forth in Title 17 of the Banning Municipal Code relating to land use for cannabis businesses.

C. A violation of any Section within this Chapter is a public nuisance.

#### **5.33.170 Joint and Several Liability.**

All permittees and owners shall be jointly and severally liable for violation of any provision set forth in this Chapter."

### **SECTION 3. SEVERABILITY**

If any section, subsection, clause or phase or portion of this code is for any reason to 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 4. PUBLICATION, EFFECTIVE DATE OF ORDINANCE**

The City Clerk shall certify to the passage and adoption of this Ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which time the same is passed and adopted. 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.

### **SECTION 5. EFFECTIVE DATE OF SECTION 2 OF THIS ORDINANCE**

Section 2 of this Ordinance shall not take effect until January 1, 2019, and shall only take effect if Measure O is approved by the voters at the November 6, 2018 election, and such tax becomes operative.



**PASSED, APPROVED AND ADOPTED** this 13th day of November, 2018.

\_\_\_\_\_  
George Moyer, Mayor  
City of Banning

**ATTEST:**

\_\_\_\_\_  
Laurie Sampson, Acting Deputy City Clerk  
City of Banning

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Kevin G. Ennis, City Attorney  
Richards, Watson & Gershon, APC

**CERTIFICATION:**

I, Laurie Sampson, Acting Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 23rd day of October, 2018, and was duly adopted at a regular meeting of said City Council on the 13th day of November, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Laurie Sampson, Acting Deputy City Clerk  
City of Banning, California

## ORDINANCE 1531

**AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, APPROVING A CATEGORICAL EXEMPTION FROM CEQA AND APPROVING ZONING ORDINANCE AMENDMENT 18-97503 TO AMEND TITLE 17 "ZONING" OF THE BANNING MUNICIPAL CODE TO ADD A NEW CHAPTER 17.54, "CANNABIS RETAILER CONDITIONAL USE PERMITS" TO ALLOW CANNABIS RETAILERS IN THE HIGHWAY SERVING COMMERCIAL ZONE WITH APPROVAL OF A CANNABIS CONDITIONAL USE PERMIT, AND MAKING THE ALLOWANCE FOR, AND REGULATION OF, THESE BUSINESSES CONTINGENT UPON THE VOTER'S APPROVAL OF A TAX MEASURE (MEASURE O) ON THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION BALLOT**

WHEREAS, on October 9, 2015 Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State regulatory and licensing scheme for commercial medical cannabis businesses; and

WHEREAS, on November 8, 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA made it lawful under State and local law for persons 21 years of age or older to possess and cultivate limited quantities of cannabis for personal use. The AUMA also established a State regulatory and licensing scheme for commercial adult-use cannabis businesses; and

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medicinal and adult-use cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether cannabis businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under the MAUCRSA including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more businesses licensed by the State, within that local jurisdiction; and

WHEREAS, the City Council finds that unregulated retail cannabis sales activity has the potential to adversely affect the public health and safety of Banning residents and



those engaged in retail cannabis activity. For example, on June 23, 2018, there was an armed robbery at an illegal cannabis dispensary in the City that resulted in the perpetrators shooting and stabbing five people who were at the dispensary. The City is aware that similar incidents have occurred at other cannabis dispensaries/retailers due primarily to the fact that these are often all-cash businesses, thus making them magnets for crime; and

WHEREAS, the City Council also finds that, if a retail cannabis business tax is adopted by the voters, that limited retail commercial cannabis sales activity may provide financial benefits to the City as long as they are sufficiently regulated by the City. The establishment of land use regulations for cannabis retailers will substantially reduce this threat to the public health and safety; and

WHEREAS, the City Council desires to establish reasonable zoning and land use regulations regarding the operation of cannabis retailers that are intended to address the potential negative impacts of unregulated cannabis businesses. These regulations include security measures to protect the employees and patrons of the cannabis retail business, as well as the public as a whole; and

WHEREAS, the regulations also include limiting the number of retailers to one for every 10,000 residents. This limitation will ensure that the City can closely monitor these businesses so that they do not create public health and safety risks to residents and visitors. Additionally, this limitation will ensure that an unnecessary strain is not placed on the City's already overtaxed law enforcement personnel. The limitation on the number of cannabis retailers is proportional to existing demand as evidenced by the number of illegal cannabis dispensaries that are currently operating in the City; and

WHEREAS, the City Council desires to establish zoning and land use regulations through this Ordinance for cannabis retailers that are companion elements to the City's adoption of cannabis business permit regulations and the voter's adoption of cannabis business taxes; and

WHEREAS, on October 3, 2018, the Planning Commission of the City of Banning held a public hearing regarding this Ordinance 1531, at which time all persons interested in the contents of this Ordinance had the opportunity and did address the Planning Commission on these matters specific to the establishment of zoning and land use regulations for retail cannabis sales facilities. Following the receipt of public testimony, the Planning Commission closed the public hearing. At the conclusion of the Planning Commission hearing, and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2018-18 recommending that the City Council adopt this Ordinance to allow cannabis retailers as a conditionally permitted use in the Highway Serving Commercial zone; and

WHEREAS, the City Council of the City of Banning held a public hearing on the proposed Ordinance 1531, at which time all persons interested in this Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony, the City Council closed the public hearing; and



WHEREAS, this Ordinance, Ordinance 1531, will only go into effect if the Banning voters approve a tax measure (Measure O) imposing taxes on these cannabis retailers at the November 6, 2018 municipal election; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. ENVIRONMENTAL FINDINGS**

**A. California Environmental Quality Act (CEQA)**

The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of the Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to the Ordinance will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

The City Council further finds and determines that this Ordinance is exempt from review under the CEQA and the State CEQA Guidelines Section 15061(b)(1) which exempts a project from CEQA if the project is exempt by statute. Business and Professions Code section 26055(h) provides that Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. Pursuant to that exemption, the City is providing that discretionary review for applications for cannabis conditional use permits will be required to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

The City Council hereby adopts a categorical exemption for this Ordinance and directs staff to file a Notice of Exemption.

**B. Multiple Species Habitat Conservation Plan (MSHCP)**

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

**SECTION 2. ADDITIONAL REQUIRED FINDINGS**

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zoning Text Amendments meet certain findings prior

to the approval by the City Council. The following findings are provided in support of the approval of the Zoning Text Amendment No. 18-97503.

**Finding No. 1:** Proposed Zone Text Amendment No. 18-97503 is consistent with the goals and policies of the General Plan.

**Findings of Fact:** Proposed Zone Text Amendment No. 18-97503 is consistent with the goals and policies of the General Plan. Commercial cannabis activities can adversely affect the health, safety and well-being of City residents. The unregulated retail sales of cannabis can also lead to an increase in the frequency of robberies and similar crimes. The concentration of cannabis in any location or premises without adequate regulations increases the risk that surrounding homes or businesses may be negatively impacted. The Banning Municipal Code currently bans all retail cannabis uses within the City. It is in the public interest to regulate cannabis, to allow for responsible and lawful retail cannabis sales in the City. With adequate regulation and oversight limited commercial cannabis activity are consistent with the following General Plan goals and policies:

**Economic Development Element:**

Goal

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

Policy 1

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

Policy 2

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

**Finding No. 2:** Proposed Zone Text Amendment No. 18-97503 is internally consistent with the Zoning Ordinance.

**Findings of Fact:** Proposed Zone Text Amendment No. 18-97503 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of uses and lands within the City to protect the public



health, safety, and welfare. The proposed amendments will protect the public health, safety, and welfare of the residents of the City by reasonably regulating retail cannabis sales so as to avoid the risks of criminal activity, malodorous smells, and degradation of the natural environment.

**Finding No. 3:** The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act ("CEQA"), the City Council finds and determines that this Ordinance is not subject to CEQA pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of this Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to this Ordinance will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

The City Council has analyzed proposed Zone Text Amendment No. 18-97503 and has determined that, pursuant to California Business and Professions Code Section 26055(h), CEQA "...does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity", provided that said law, ordinance, rule, or regulations shall include any applicable environmental review pursuant to Division 13 of the Public Resources Code. As this Ordinance includes required CEQA compliance for individual conditional use permit applications for commercial cannabis businesses, the CEQA exemption applies to the adoption of this Ordinance.

### **SECTION 3.     ZONE TEXT AMENDMENT NO. 18-97503**

Title 17 (Zoning) of the Banning Municipal Code is amended as follows:

A.     The alphabetized list of definitions provided for in Section 17.04.070 (Definitions) of Chapter 17.04 (Basic Provisions) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add the definition of "Cannabis Retailer" as follows:

**Cannabis Retailer** means a cannabis business that engages in the retail sale and delivery of cannabis or cannabis products to customers.

B.     Table 17.08.020 of Section 17.08.020 (Permitted, conditional and prohibited uses.) of Chapter 17.08 (Residential Districts) of Title 17 (Zoning) of the

Banning Municipal Code is hereby amended to add "Cannabis Retailer" to the table, with all other provisions of Table 17.08.020 remaining unchanged:

Zone	R/A	R/A/H	RR	RR/H	VLDR	LDR	MDR	HDR	MHP
Residential Uses									
<u>Cannabis Retailer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

C. Table 17.12.020 (Permitted, conditional, and prohibited commercial and industrial uses.) of Section 17.12.020 (Permitted, conditional and prohibited uses) of Chapter 17.12 (Commercial and Industrial Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add "Cannabis Retailer" to the table with all other provisions of Table 17.12.020 remaining unchanged:

Zone	DC	GC	HSC	PO	I	AI	BP	IMR
<b>Resource and Open Space Uses</b>								
<u>Cannabis Retailer</u>	<u>X</u>	<u>X</u>	<u>C<sup>8</sup></u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

8. Cannabis Retailers shall require approval of a Cannabis Conditional Use Permit by the City Council, after recommendation by the Planning Commission, and shall be subject to the requirements of Chapter 17.54.

D. Table 17.12.050 (Use Specific Development Standards.) of Section 17.12.050 (Use specific standards) of Chapter 17.12 (Commercial and Industrial Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add "Cannabis Retailer" to the list of Use-Specific Development Standards:

Zone	DC	GC	HSC	PO	I	AI	BP	IMR
<u>Y. Cannabis Retailer</u>			<u>*</u> <u>-</u>					

Y. Cannabis Retailers shall require approval of a Cannabis Conditional Use Permit by the City Council, after recommendation by the Planning Commission, and shall be subject to the requirements of Chapter 17.54.

E. Table 17.16.020 (Permitted, conditional and prohibited public facilities uses.) of Section 17.16.020 (Permitted, conditional, and prohibited uses) of Chapter 17.16 (Public Facilities Districts) of Title 17 (Zoning) of the Banning Municipal



Code is hereby amended to add "Cannabis Retailer" to the table, with all other provisions of Table 17.16.020 remaining unchanged:

Zone	PF-A	PF-G	PF-F	PF-S	PF-H
<u>Cannabis Retailer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

F. Table 17.20.020 (Permitted, conditional and prohibited open space uses.) of Section 17.20.020 (Permitted, conditional and prohibited uses) of Chapter 17.20 (Open Space Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add "Cannabis Retailer" to the table, with all other provisions of Table 17.20.020 remaining unchanged:

Zone	OS-R	OS-PA	OS-PU	OS-H
<u>Cannabis Retailer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

G. Chapter 17.54 (Cannabis Conditional Use Permits) is hereby added to Title 17 (Zoning) of the Banning Municipal Code to read as follows:

**"Chapter 17.54 Cannabis Retailer Conditional Use Permits"**

**Sections**

- 17.54.010 Definitions.
- 17.54.020 Cannabis Retailer Conditional Use Permit Required.
- 17.54.030 Cannabis Retailer Conditional Use Permit - Fees and Terms.
- 17.54.040 Cannabis Retailer Conditional Use Permit Application Requirements.
- 17.54.050 Additional Application Requirements.
- 17.54.060 Procedures and Findings for Approval of Cannabis Retailer Conditional Use Permit.
- 17.54.070 Approval of Cannabis Retailer Conditional Use Permit With Conditions.
- 17.54.080 Separation Requirements and Other Limitations.
- 17.54.090 Premises.
- 17.54.100 Personnel and Visitors.
- 17.54.110 Security.
- 17.54.120 Track and Trace.
- 17.54.130 Signage.
- 17.54.140 Cannabis Waste Management.
- 17.54.150 General Sanitary Requirements.
- 17.54.160 Odor Control.
- 17.54.170 Operating Requirements.
- 17.54.180 Other Provisions.
- 17.54.190 Indemnification.



## **17.54.010 Definitions**

For the purpose of this Chapter, the following words and phrases shall be defined as follows:

- A. "Applicant" means an owner applying for a cannabis retailer conditional use permit pursuant to this Chapter.
- B. "Bureau" means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- C. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.
- D. "Cannabis business" means a cannabis retailer.
- E. "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.
- F. "Cannabis retailer" means a cannabis business that engages in the retail sale and delivery of cannabis or cannabis products to customers.
- G. "City" means the City of Banning.
- H. "City Manager" means the City Manager or his/her designee.
- I. "Convicted" or "Conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere was entered, but does not include any plea, verdict, or conviction that is expunged pursuant to California law or a similar federal or state law where the expungement was granted.
- J. "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products, or engaging in any other cannabis activity that requires a State license issued by a licensing authority.
- K. "Financial interest" shall have the meaning set forth in Section 5004 of Title 16 of the California Code of Regulations, as the same may be amended from time to time.

L. "Licensing authority" means the Bureau of Cannabis Control; CalCannabis Cultivation Licensing, a division of the California Department of Food and Agriculture (CDFA); the California Department of Public Health's Manufactured Cannabis Safety Branch; or any other State cannabis licensing authority.

M. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

N. "Owner" means any of the following:

1. A person with any ownership interest, unless the interest is solely a security, lien, or encumbrance.

2. The chief executive officer of a nonprofit or other entity.

3. A member of the board of directors of a nonprofit.

4. An individual who will be participating in the direction, control, or management of the person applying for a permit. An owner who is an individual participating in the direction, control, or management of the commercial cannabis business includes any of the following:

a) A partner of a cannabis business that is organized as a partnership.

b) A member of a limited liability company of a cannabis business that is organized as a limited liability company.

c) An officer or director of a cannabis business that is organized as a corporation.

O. "Permit" means a cannabis retailer conditional use permit issued pursuant to this Chapter.

P. "Permittee" means any person holding a cannabis conditional use permit under this Chapter.

Q. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

R. "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant where the cannabis business will be conducted.

S. "Significant discrepancy" means a difference in actual inventory compared to records pertaining to inventory of at least one thousand dollars (\$1,000).



For purposes of determining a discrepancy, the acquisition price of the cannabis goods shall be used to determine the value of cannabis goods in a permittee's inventory.

**17.54.020 Cannabis Retailer Conditional Use Permit Required.**

A. Except as expressly authorized pursuant to this Title (Title 17, Zoning), all commercial cannabis activity is prohibited in the City.

B. Prior to initiating operations and as a continuing requisite to operating a cannabis business, the person(s) wishing to operate a cannabis business shall:

1. Obtain and maintain a validly issued cannabis conditional use permit approved by the City Council after recommendation by the Planning Commission, and comply with all conditions of approval.

2. Obtain and maintain a State license to engage in the specific cannabis business being operated on the premises.

3. Obtain and maintain a cannabis retailer regulatory permit as required by Chapter 5.33 of this Code.

4. Obtain and maintain a business license or any other license or permit required by this Code.

**17.54.030 Cannabis Retailer Conditional Use Permit - Application Fees and Terms.**

A. No cannabis retailer conditional use permit application shall be processed unless the applicant pays the nonrefundable application fee in the amount to be established by resolution of the City Council. No cannabis retailer conditional use permit shall be issued unless the applicant pays the nonrefundable permit fee in the amounts to be established by resolution of the City Council.

B. No cannabis retailer conditional use permit shall be issued if the applicant has an ownership or other direct financial interest in any other commercial cannabis business operating in the City.

**17.54.040 Cannabis Retailer Conditional Use Permit Application Requirements.**

An applicant shall file the following information with the City at the time of application for a cannabis retailer conditional use permit:

A. A completed cannabis retailer conditional use permit application, together with the application fee in an amount to be established by resolution of the City Council.



B. Proof of a cannabis regulatory permit jointly approved by the City Manager and Chief of Police. The owner(s) identified on the cannabis retailer conditional use permit application shall be same owner(s) as listed on the cannabis retailer regulatory permit issued pursuant to Chapter 5.33.

C. An operating plan for the proposed cannabis business that includes:

1. A general description of the types of products and/or services to be sold or provided by the cannabis business;

2. A site plan, drawn to scale and professionally prepared by a licensed civil engineer or architect, of the parcel of property on which the proposed cannabis business will be located. The site plan shall include the outline of all structures, driveways, parking and landscape areas, and boundaries of the parcel.

3. A floor plan, drawn to scale and professionally prepared by a licensed civil engineer or architect, designating all interior dimensions of the premises, the proposed use of all spaces, identification of limited access areas, areas of ingress and egress, and all security camera locations.

4. An evaluation of accessibility by the physically disabled to and within the building and identification of any planned accessibility improvements to comply with all state and federal disability access laws, including, but not limited to, Title 24 of the California Code of Regulations and the Americans with Disabilities Act. The evaluation must be professionally prepared by a licensed civil engineer or architect.

5. A business plan describing how the cannabis business will operate in accordance with the Banning Municipal Code, state law, and other applicable regulations. The business plan must include plans for cash handling and transportation of cannabis and cannabis products to and from the premises.

6. A list of all owners, employees, independent contractors, and volunteers.

D. Neighborhood Context Map. An accurate straight-line drawing depicting the boundaries of the premises, the boundaries of all other properties within 600 feet of the premises, and the uses of those properties, specifically including, but not limited to, any use identified in Business and Professions Code section 26054(b), and any park. The map must also identify any residentially zoned parcel that is located within 200 feet of the premises. The map must be professionally prepared by a licensed civil engineer or architect.

E. Security plan. A detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the premises. The security plan must be prepared by a qualified professional.

F. Lighting Plan. A lighting plan showing existing and proposed exterior and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use.

G. The name, phone number, and email address of an on-site community relations representative or staff member or other representative to whom the City can provide notice if there are operating problems associated with the cannabis business or refer members of the public who may have complaints or concerns regarding the cannabis business. This information shall be available to neighboring businesses and residences located within one hundred feet of the cannabis business, as measured in a straight line without regard to intervening structures.

**17.54.050 Additional Application Requirements.**

A. Each cannabis business shall obtain a separate conditional use permit.

B. The applicant shall submit proof that the applicant is, or will be, entitled to possession of the premises for which application is made.

C. The applicant shall submit proof of the nature of the cannabis business's organizational status, such as articles of incorporation, by-laws, partnership agreements, and other documentation which may be required by the City.

**17.54.060 Procedures and Findings for Approval of Cannabis Retailer Conditional Use Permit.**

A. A cannabis retailer conditional use permit shall be processed in accordance with the procedures set forth in Chapter 17.52, Conditional Use Permits, with the following exceptions:

1. Any provision that requires the approval by the Planning Commission with appeal to the City Council shall be replaced with the requirement that the Planning Commission make a recommendation on the cannabis retailer conditional use permit and that the approval of such permit shall be made by the City Council.

2. Sections 17.52.020 (Application procedures) and 17.52.080 (Modifications) shall not apply.

3. Any procedures pertaining to noticing and the setting of a public hearing before the Planning Commission shall also apply to the City Council.

B. An applicant for a cannabis retailer conditional use permit shall comply with the California Environmental Quality Act ("CEQA"). No cannabis retailer conditional use permit shall be granted until the requisite CEQA review has been conducted.



**17.54.070 Approval of Cannabis Retailer Conditional Use Permit with Conditions**

A. Upon approval of a cannabis conditional use permit, the City Council may impose conditions in excess of the requirements set forth in this Chapter including, but not limited to, conditions relating to hours of operation, the operation of any cannabis business, restrictions relating to the deployment or use of the types of equipment used on the premises, and set back requirements.

B. The City may grant a cannabis conditional use permit prior to the applicant having obtained a state license from a licensing authority; however, no approved cannabis business may receive a certificate of occupancy nor operate in the City prior to possessing the requisite state and local licenses and permits.

C. All cannabis businesses must pay all applicable taxes pursuant to all federal, state, and local laws.

D. Cannabis businesses shall comply with all cannabis state laws and regulations.

**17.54.080 Separation Requirements and Other Limitations.**

A. Only one cannabis retailer for every 10,000 residents may lawfully operate in the City, with any fraction of that ratio being rounded down to the nearest whole number.

B. No cannabis business shall be located within a 200 foot radius of any residential zoning district. No cannabis business shall be located within a 600 foot radius of any day care center, youth center, public or private school providing instruction in kindergarten or any of grades 1-12, park, ~~or any other retail cannabis business that is lawfully operating in the City and that is in existence at the time the cannabis conditional use permit is issued.~~ The 600-foot distance requirement does not include any private school in which education is primarily conducted in a private home or a family day care home. The distances specified in this subsection shall be the horizontal distance measured in a straight line without regard to intervening structures, from the property line of the lot on which the cannabis business is located to the nearest property line of those uses described in this subsection.

**17.54.090 Premises.**

A. All cannabis businesses shall be conducted only in the interior of enclosed structures, facilities and buildings and all operations including the storage or cultivation of cannabis plants at any stage of growth shall not be visible from the exterior of any structure, facility, or building. There shall be no outdoor storage of any kind associated with the cannabis business.

B. Loading areas and loading docks shall be located on the side or rear of the lot, and shall be screened by solid, decorative walls.



C. Hours of operation shall be as approved with the Conditional Use Permit.

D. Cannabis businesses shall only be conducted on properties that are fully compliant with all Banning Municipal Code requirements, including required development standards such as parking, landscaping, etc.

E. All entrances into the premises shall be locked at all times with entry controlled by the permittee's managers and staff.

F. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed on the premises.

G. All commercial cannabis activity in any premises shall be separated from the main entrance and lobby, and cannabis and cannabis products shall be secured by a lock accessible only to managers and staff of the permittee.

H. A permittee shall not, without an approved amendment to the cannabis retailer conditional use permit, make a physical change, alteration, or modification of the premises that alters the premises or the use of the premises from the premises diagram filed with the permit application. Material or substantial changes, alterations or modifications requiring approval include, but are not limited to, the removal, creation, or relocation of a common entryway, doorway, passage, or a means of public entry or exit, when such common entryway, doorway or passage alters or changes limited-access areas within the premises.

I. A permittee shall not sublet the premises.

J. Inspections. The City shall have the right to enter all cannabis businesses from time to time upon 24-hour's notice for the purpose of making reasonable inspections to observe and enforce compliance with this Chapter. Such inspections shall be limited to observing the licensed premises for purposes of determining whether the cannabis business is being operated or maintained in compliance with this Code, state law, and other applicable laws and regulations. Any cannabis business licensed pursuant to this Chapter may be required to demonstrate, upon demand by the City that the source and quantity of any cannabis or cannabis products found upon the licensed premises is in full compliance with any applicable local or state law or regulation.

#### **17.54.100 Personnel and Visitors.**

A. All agents, officers, or other persons acting for or employed by a cannabis business shall display a laminated or plastic-coated identification badge issued by the cannabis business at all times while engaging in commercial cannabis activity. The identification badge shall, at a minimum, include the cannabis business's "Doing business as" name and city business license number, the employee's first name, an employee number exclusively assigned to that employee for identification purposes,



and a color photograph of the employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height.

B. Employees and Volunteers Age Requirement. A cannabis business shall not employ an individual less than twenty-one (21) years of age, nor may a cannabis business permit an individual less than twenty-one (21) years of age to volunteer at the cannabis business.

C. Visitors. Limited access areas of a cannabis business shall not be open to the general public. Any individual permitted to enter a limited access area who is not a person that has undergone a background check in accordance with Chapter 5.33 of this Code and is not listed on the premises' worker list shall be considered a visitor. Notwithstanding the foregoing, state and local employees, or their official designees, shall not be considered a visitor provided the individual is on the licensed premises for purposes of official government business.

1. Visitors Identification and Record Requirements. Prior to permitting a visitor into a limited access area, a cannabis business must check the individual's valid government issued identification. The visitor shall be required to sign the cannabis business's visitor log, which must include the individual's name, date of entry, and purpose for entry.

2. Visitors Must Be at Least Twenty-One (21) Years of Age. A cannabis business may not permit a visitor who is less than twenty-one (21) years of age to enter a limited access area.

3. Visitors Prohibited Conduct. A visitor shall not be permitted to engage in any commercial cannabis activity while on the premises.

4. A manager shall be on the site at all times that any other person, except a security guard, is on the site.

#### **17.54.110 Security.**

The premises of a cannabis business must comply with all of the following security requirements:

A. Main entrance and lobby. The premises shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. The premises shall have an area designed for the secure receipt of cannabis and cannabis goods from a licensed distributor.

B. Commercial-Grade Locks. All points of ingress and egress to a premises shall ensure the use of commercial-grade, nonresidential door locks or window locks.

C. A permittee shall hire or contract for 24-hour security personnel to provide security services for the premises. All security personnel hired or contracted for by the cannabis business shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code.

D. Video Surveillance. The premises must be equipped with a video surveillance system that meets all of the requirements set forth in this subsection.

1. Each premises shall have a digital audio/video surveillance system with a minimum camera resolution of 1280 x 720 pixels.

2. The surveillance-system storage device or the cameras shall be transmission control protocol (TCP) capable of being accessed through the internet.

3. The video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance and shall capture audio such that all sounds are intelligible.

4. Each camera shall be permanently mounted and in a fixed location. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the premises, and allows for the clear and certain identification of any person and activities in all areas required to be filmed under subsection 5 below.

5. Areas that shall be recorded on the audio/video surveillance system include the following:

a) Areas where cannabis goods are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the premises;

b) Limited-access areas;

c) Security rooms;

d) Areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area.

e) Entrances and exits to the premises.

f) Waste containers.

6. Cameras shall record continuously 24 hours per day and at a minimum of 15 frames per second (FPS).

7. The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering, fire, or theft.



8. Surveillance recordings shall be kept for a minimum of 90 days.

9. Surveillance recordings shall be monitored by a third party surveillance company.

10. Surveillance recordings are subject to inspection by the City, and shall be kept in a manner that allows the City to view and obtain copies of the recordings at the licensed premises upon not less than 24 hours advance notice. The permittee shall also send or otherwise provide copies of the recordings to the City upon reasonable notice by the City.

11. Recorded images shall clearly and accurately display the time and date. Time is to be measured in accordance with the United States National Institute Standards and Technology standards.

12. The video surveillance system shall be equipped with a failure notification system that provides notification to the permittee of any interruption or failure of the video surveillance system or video surveillance-system storage device.

13. The video surveillance system shall be equipped with a battery backup system capable of sustaining system operations in the case of an energy failure.

E. Alarm System. The premises shall have an audible interior and exterior security alarm system installed on all perimeter entry points and perimeter windows.

1. The alarm system shall be installed, maintained, monitored, and responded to by a security company licensed by the Department of Consumer Affairs, Bureau of Security and Investigative Services.

2. Upon request, a permittee shall make available to the City all information related to the alarm system

F. Secure Storage of Product. Cannabis and cannabis products possessed by a cannabis business shall be kept and stored in a secured manner at all times.

G. Lighting. The business entrance(s) and all window areas of any cannabis business shall be illuminated during evening hours. The cannabis business shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, and shielding.

#### **17.54.120 Track and Trace.**

All permittees shall comply with the track and trace system established by the State of California and as further described in Sections 5048 through 5052, inclusive, of Title 16 of the California Code of Regulations, as the same may be amended from time to time.

#### **17.54.130 Signage.**

The premises must comply with the following signage requirements.

- A. Business signage shall be limited to the name of the cannabis business only, shall be in compliance with the City's sign code, and shall contain no advertising of any companies, brands, products, goods, or services.
- B. A sign shall be posted in a conspicuous place near each point of public access which shall be not less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than one inch in height, stating "All Activities Monitored by Video Camera."
- C. Limited access areas shall be clearly identified by the posting of a sign which shall be not less than twelve inches wide and twelve inches long, composed of letters not less than one-half inch in height, which shall state, "Limited Access Area—Authorized Personnel Only."
- D. A sign shall be posted stating "Smoking, vaporizing, ingesting, or otherwise consuming cannabis or cannabis products on these premises, in their vicinity, or in any public place is prohibited and a violation of the Banning Municipal Code."

#### **17.54.140 Cannabis Waste Management.**

Cannabis waste disposal shall be conducted as follows:

- A. Cannabis Waste. Cannabis waste must be made unusable and unrecognizable prior to leaving the licensed premises by grinding it and incorporating it with fifty percent non-medicinal cannabis waste.
- B. Cannabis waste must be placed in either a trash enclosure or a trash receptacle for which either is locked with a commercial grade lock that is only accessible by the owner, manager, or employee of the cannabis business and any waste disposal company that provide waste disposal services for the cannabis business.
- C. The permittee shall comply with Chapter 13.20, Industrial Wastewater Collection and Treatment of the Banning Municipal Code.

#### **17.54.150 General Sanitary Requirements.**

- A. A cannabis business must ensure that its premises is maintained in a sanitary manner and activities on its premises are conducted in a sanitary manner.



B. All facilities of a cannabis business must have adequate and sufficient access to bathrooms and hand-washing facilities with running water at a suitable temperature.

**17.54.160 Odor Control.**

A. A cannabis business must have a ventilation and filtration system installed that shall prevent cannabis plant odors from exiting the interior of the structure and shall comply with all related Building Code requirements.

The ventilation and filtration system must be approved by the Building Official and installed prior to the commencement of cannabis cultivation activities.

**17.54.170 Operating Regulations.**

A. Limited Hours of Operation. A cannabis retailer may only be open to the public and engage in sales between the hours of 8:00 (eight) a.m. and 10:00 (ten) p.m.

B. Product Not Visible To Public. The display of cannabis and cannabis products for sale shall not be visible from outside the licensed premises.

C. Age Restricted Entry. A cannabis retailer may not permit an individual less than twenty-one years of age into the licensed premises, except a cannabis retailer with an M-license (allowing for the sale of medicinal cannabis and cannabis products) from the state may permit an individual aged eighteen years or older into the licensed premises if the cannabis retailer verifies the individual is a qualified patient with a physician's recommendation or a primary caregiver, as those terms are defined under State law.

D. Cannabis Paraphernalia Sales. Cannabis retailers may sell or otherwise provide equipment, supplies, and paraphernalia used to consume cannabis and cannabis products.

E. Electronic Point-of-Sale System Required. Cannabis retailers must have an electronic point of sale system that is either part of their seed to sale software or integrates with their seed to sale software. The electronic point of sale system must be capable of producing an electronic or automatic paper record for all transactions associated with any product sold, rented, or otherwise provided to the customer.

F. No Sales of Expired Product. Cannabis retailers may not sell any expired products, cannabis or cannabis products. Cannabis retailers shall not alter, edit, or adjust in any manner an expiration date on any item or product once affixed by its manufacturer.

G. Handling of Edible Cannabis Products. Cannabis retailers that possesses edible cannabis products shall comply with the provisions of all relevant state and local laws regarding the storage, handling, and sale of food.



H. Sale of Untested Products. Cannabis retailers may sell cannabis or cannabis products that have not been tested by a testing laboratory from January 1, 2018 until such time as determined by the state. Thereafter, all cannabis and cannabis products sold by a dispensary must be tested by a testing laboratory prior to sale to a purchaser in accordance with MAUCRSA.

I. Consumption of Cannabis and Cannabis Products on Premises. Cannabis and cannabis products shall not be smoked, vaporized, ingested or otherwise consumed on the licensed premises of a cannabis retailer. Premises as used in this subsection includes the actual building, as well as any accessory structures, common areas and parking areas.

J. Tamper-Evident, Child-Resistant Packaging Required. A cannabis retailer shall not deliver or sell cannabis products that are not packaged or labeled in a resealable, tamper-evident, child-resistant package. The cannabis and shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products.

K. Cannot Be Attractive to Children. Cannabis packaging and labeling shall not be designed to appeal to children, including, but not limited to, cartoon characters or similar images.

L. State-Mandated Warnings and Information. All cannabis and cannabis product labels and inserts shall include the state-mandated warnings and information contained in Business and Professions Code Section 26120(c). Notwithstanding the foregoing, during the period of time that the state permits untested cannabis and cannabis products to be sold to purchasers, all cannabis and cannabis products must have a label affixed to each package that clearly states "This product has not been tested as required by the Medicinal and Adult-Use Cannabis Regulation and Safety Act" and must comply with any other labeling requirements imposed by the state.

#### **17.54.180 Other Provisions.**

A. No person shall give, sell, distribute, or otherwise transfer any cannabis product in any manner not consistent with the approved cannabis conditional use permit or that violates local or state law.

B. Permittees must cooperate with City staff and Police Department personnel who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to this Chapter.

C. Permittees must comply with all state laws and regulations that pertain to cannabis businesses including, but not limited to, the MAUCRSA, and any regulations promulgated by a licensing authority.

D. Minimum square footage of the building shall be 800 s.f. unless otherwise provided by State.



#### **17.54.190 Indemnification.**

A. Indemnification. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any permit pursuant to this Chapter or the operation of any cannabis business approved by such permit pursuant to this Chapter. As a condition of approval of a permit granted under this Chapter, the applicant shall:

1. Indemnify and hold the City harmless from any and all claims, damages, legal or enforcement actions, including, but not limited to, any actions or claims associated with violation of federal law associated with the operation of the cannabis business as provided in this chapter.
2. Maintain insurance in the amounts and of the types that are acceptable to the City pursuant to guidelines and policies set forth by the City.
3. Name the City as an additionally insured on all City required insurance policies.
4. Defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a permit or the operation of the cannabis business.
5. Reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge (or federal enforcement action) related to the City's approval of a permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder."

#### **SECTION 4. SEVERABILITY**

If any section, subsection, clause or phrase or portion of this code is for any reason to 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 City Council hereby declares 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. PUBLICATION**

The City Clerk shall certify to the passage and adoption of this Ordinance, and shall make a record of the passage and adoption thereof in the records of and the proceedings of the City Council at which time the same is passed and adopted. 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. The Ordinance shall go into effect thirty (30) days after its adoption, except for Section 3 of this Ordinance which shall have an effective date provided in Section 6 below.

**SECTION 6. EFFECTIVE DATE OF SECTION 3 OF THIS ORDINANCE AND CONTINGENCY ON TAX MEASURE APPROVAL BY THE VOTERS**

Section 3 of this Ordinance shall not take effect until January 1, 2019, and shall only take effect if Measure O is approved by the voters at the November 6, 2018 election, and such tax becomes operative.

**PASSED, APPROVED AND ADOPTED** this 13<sup>th</sup> day of November, 2018.

\_\_\_\_\_  
George Moyer, Mayor  
City of Banning

ATTEST:

\_\_\_\_\_  
Laurie Sampson, Acting Deputy City Clerk  
City of Banning

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Kevin G. Ennis, City Attorney  
Richards, Watson & Gershon, APC



**CERTIFICATION:**

I, Laurie Sampson, Acting Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 23rd day of October, 2018, and was duly adopted at a regular meeting of said City Council on the 13th day of November, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Laurie Sampson, Acting Deputy City Clerk  
City of Banning

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**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Ted Shove, Economic Development Manager

**MEETING DATE:** November 13, 2018

**SUBJECT:** Public Hearing to Consider Approval of a Fee Waiver in Accordance with Section 15.72.050 of the Banning Municipal Code, submitted by Ronnell Gallon and John Weeks, for Properties Identified as Assessor's Parcel Numbers 532-160-007, 532-160-008, and 532-160-009.

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**RECOMMENDED ACTION:**

That the City Council:

1. Conduct a Public Hearing on the proposed Fee Waiver; and,
2. Adopt Resolution No. 2018-140, approving fee waiver in accordance with Section 15.72.050 of the Banning Municipal Code, in an amount Not to Exceed \$17,840.

Alternatively, if the findings presented are insufficient, the City Council could:

1. Adopt Resolution No. 2018-141, denying fee waiver in accordance with Section 15.72.050 of the Banning Municipal Code.

**PROJECT/APPLICANT INFORMATION:**

Project Applicants: Ronnell J. Gallon, VP Factory Operations and Production  
ZENNER Performance Meters, Inc.  
1910 Westward Avenue  
Banning, CA 92220

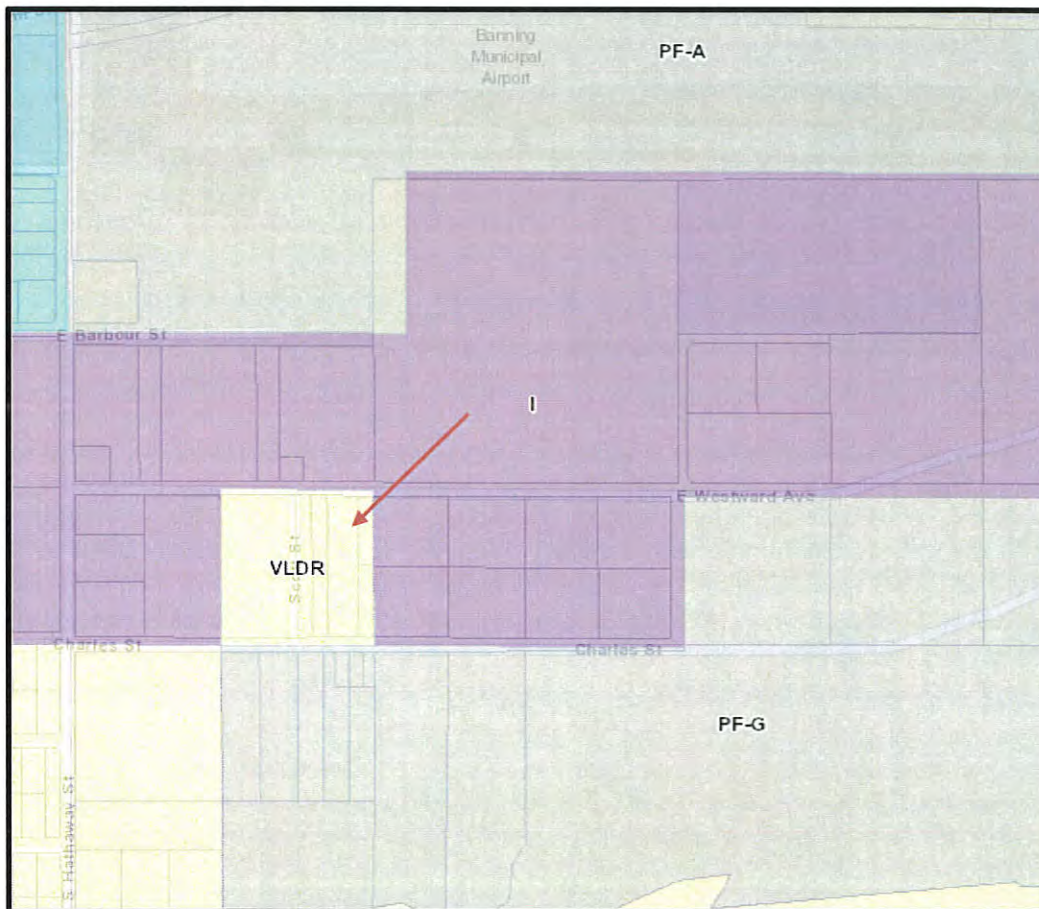
John Weeks, Owner  
Weeks Group Investment  
1592 Westward Avenue  
Banning, CA 92220

## **BACKGROUND:**

On September 13<sup>th</sup>, the City received a request for a fee waiver for fees associated with applications for a proposed General Plan Amendment, Zone Change, and Environmental Assessment for three properties located on the south side of Westward Avenue, east of S. Hathaway Street (APNs 532-160-007, 532-160-009, and 532-160-008).

The properties are located in the Very Low Density Residential (VLDR) zoning district, within a larger area of VLDR-zoned properties that is generally surrounded by Industrial (I) and Public Facilities-Government (PF-G) zoning as depicted in the zoning map excerpt below.

October 23<sup>rd</sup>, the City Council provided direction to staff to calendar a public hearing for the fee waiver request, as required in Banning Municipal Code 15.72.050(C)(1). If granted, the fee waiver request would relieve the applicants of fees associated with applications for a proposed General Plan Amendment, Zone Change, and Environmental Assessment.





## **ANALYSIS:**

### **Authority for Fee Waivers**

Banning Municipal Code Section 15.72.050(A) identifies certain fees that may be waived by the City Council:

- A. The city council may waive the requirement for the payment of the following listed fees:
1. Miscellaneous development fees described in Chapter 15.72 of this Code;
  2. Bridge and major thoroughfare fees described in Chapter 12.08 of this Code;
  3. Open space and park fee described in Chapter 15.68 of this Code;
  4. Water, sanitation and sewage connection fees established pursuant to Chapter 13.08 of this Code;
  5. Fees and service charges described in Chapter 3.36 of this Code;
  6. Any other fee as deemed just and proper by the city council.

As identified by #5 above, fees and service charges described in Chapter 3.36 of the Municipal Code include Planning Department fees for (S-7) Zone change review, (S-12) General plan amendment review, and (S-20) Environmental review (see BMC 3.36.080, attached). The request for fee waivers applies to application fees in this category.

### **Required Findings for Fee Waivers**

Municipal Code Section 15.72.050(B) states that one or more findings must be made before waiving such fees as listed below:

1. The fee is not required for the payment of any outstanding indebtedness of the city, whether such debt is owed to third parties or is intradepartmental, or of any assessment district in the city.
2. The fee is not required for the ongoing expenses of any assessment district in the city.
3. The waiver of the fee will not have an adverse fiscal impact on the ongoing operations of the city.
4. That the waiver does not create a gift of public funds to the beneficiary of the waiver in that by such waiver the city will derive a benefit of equal or greater value from the beneficiary.
5. The fee was not properly collected by the city, through no fault of the beneficiary.

6. The city council finds that the fee, or the amount of the fee, is not properly chargeable to the beneficiary under the applicable law.

#### Justification for Approval of Fee Waiver

Staff has been working individually with each applicant for more than a year regarding their wishes to expand and/or develop the individually-owned properties in question. Both applicants have indicated previously that the cost of the applications, coupled with the lack of certainty as to the outcome, are prohibitive.

As a matter of business development and/or retention, waiver of the fees would support the City's Economic Development strategic goals stated previously. The waiver could demonstrate the Council's support of business development (related to Mr. Weeks' property) and expansion of an existing business (for the Zenner property), although it should be noted that there is no pre-determination on either the General Plan and Zoning Map Amendments or the future projects assumed by this waiver.

The City Council could consider making finding #4 - That the waiver does not create a gift of public funds to the beneficiary of the waiver in that by such waiver the city will derive a benefit of equal or greater value from the beneficiary.

#### Formalized Return on Investment

Under Finding 4, the determination of finding would be made based upon receiving a financial benefit that is equal to or greater than the fee waiver value. It is recommended that, in connection with making this finding, an operating agreement with both parties be formalized to ensure the City receives its return on investment. The agreement could include security and operational provisions including: continued sales and property tax generation (and increases, as applicable) and/or job creation. Such an agreement could be returned to the City Council for approval or authority could be designated to the City Manager as a condition precedent to the fee waiver being granted.

#### Justification for Disapproval of Fee Waiver

Staff has previously advised the applicants that there are upcoming plans to review and update the City's General Plan Land Use Element (an effort that would be anticipated to be concluded in time for required 2021 Housing Element updates) and that it could be possible to look at the area in question in conjunction with that effort.

If the General Plan Amendment and Zone Map Amendment were combined with or incorporated into that general update process, this would be a more cost-effective solution that would also avoid added strain to current Planning division staffing workloads.



Additionally, the Planning division is currently processing multiple industrial projects involving General Plan Amendments/Zoning Map amendments. If a fee waiver is granted for these applicants, it is entirely possible that other developers will ask for a similar waiver. In order to approve a waiver for this project, it could be necessary to be able to identify factors that distinguish this project from other similar projects so that a waiver in this instance is not viewed as singling out these applicants for special treatment without appropriate justification. Staff has not yet identified criteria that would provide such direction.

#### **JUSTIFICATION:**

The City Manager has received a letter from Ronnel J. Gallon of ZENNER Performance Meters and John Weeks of Weeks Group Investment requesting a waiver of fees for the following Planning division applications:

General Plan Amendment:	\$ 6,192.00
Zone Change:	\$ 8,524.00
Environmental Assessment:	<u>\$ 3,124.00</u>
<b>Total:</b>	<b>\$17,840.00*</b>

*\*additional fees to the City and private party will be required for development processing*

#### **FISCAL IMPACT:**

No new appropriations would be required, however, the fee waiver will reduce revenues that are Fee-for-Service based.

#### **ATTACHMENTS:**

1. Fee Waiver Request
2. Municipal Code Section 15.72.050
3. Resolution 2018-140
4. Resolution 2018-141

APPROVED BY:

  
\_\_\_\_\_  
Douglas Schulze  
City Manager

# **ATTACHMENT 1**

## **Fee Waiver Request**





9/13/2018

Rochell Clayton, City Manager  
City of Banning  
99 East Ramsey Street  
Phone: (951) 922-4860  
Fax: (951) 922-3128

Re: Fee Waiver Request for Re-Zoning Application

Rochell Clayton,

Zenner Performance Meters, Inc. ("Zenner") has established its testing facilities and operations in Banning since 2012. Due to continuous upward growth, Zenner is looking to expand its current facilities to accommodate such growth within the bounds of its property. Such expansion shall include the removal of existing storage units and the construction of an additional building. However, in seeking a permit for this new construction, Zenner was informed by your office that while our property is, and has always been, occupied by large commercial buildings and operations, the property itself is zoned as Very Low Density Residential ("VLDR"). In our research we found that Parcel No. 532-160-007, owned by Zenner, along with Parcel Nos. 532.160.009 and 532.160.008, owned by Weeks Group Investment ("Weeks"), lie within a VLDR zone between two (2) Industrial Zones. Due to this zoning discrepancy, Zenner and Weeks have submitted a joint application to have these parcels re-zoned. While it has come to our attention that the City of Banning plans to eventually re-zone these parcels to accommodate for the I-10 Banning to Cabazon Project, we are requesting such re-zoning to be expedited to accommodate our current expansion needs and to avoid seeking relocation options.

Since Zenner and Weeks both believe that the assignment of VLDR to the parcels mentioned above was originated from a zoning discrepancy due to the surrounding areas being designated as Industrial Zones and re-zoning of the same area is intended to be pursued by the City of Banning in the future to accommodate expansion to its transportation needs, Zenner and Weeks is requesting the City of Banning to waive the following fees required for the re-zoning application:

Fee Type	Amount
Zoning Change	\$8,524.00
Environmental Assessment	\$3,124.00
General Plan Amendment	\$6,192.00
Total	\$17,840.00

Pursuant to the City of Banning Municipal Code §15.72.050 (Waiver of fees), we believe this request falls within the exception for waiver listed under §15.72.050 (6) "The city council may waive the



**ZENNER**  
All that counts.

requirement for the payment of the following listed fees...Any other fee as deemed just and proper by the city council." The Code further states that the City Council shall find at least one of the following to be true before waiver: (1) the fee is not required for the payment of any outstanding indebtedness of the city, whether such debt is owed to third parties or is intradepartmental, or of any assessment district in the city; (2) the fee is not required for the ongoing expenses of any assessment district in the city; (3) the waiver of the fee will not have an adverse fiscal impact on the ongoing operations of the city; (4) that the waiver does not create a gift of public funds to the beneficiary of the waiver in that by such waiver the city will derive a benefit of equal or greater value from the beneficiary; (5) the fee was not properly collected by the city, through no fault of the beneficiary; or (6) the city council finds that the fee, or the amount of the fee, is not properly chargeable to the beneficiary under the applicable law. Zenner and Weeks believe that the City can find that the finding of "(3) the waiver of the fee will not have an adverse fiscal impact on the ongoing operations of the city" meets the qualifications of this waiver request for the following reasons: (1) the re-zoning as requested will take place within the next few years, (2) the re-zoning from VLDR to Industrial within this particular area will most likely increase the value and potential sale of other related vacant parcels in this area, and (3) no financial impact to the city through the loss of Zenner and Week's operations due to the need of relocation will occur.

For these reasons above, we ask the City Council to grant the waiver of the fees listed above for the processing of our re-zoning application. Should you have any questions or concerns, please contact me by phone at (950) 850-3135, or via email at [rgallon@zennerusa.com](mailto:rgallon@zennerusa.com). We appreciate your assistance with this matter and look forward to a quick resolution. Thank you.

Ronnell J. Gallon

Vice President of Factory Operations and Production  
ZENNER Performance Meters, Inc.

John Weeks

Owner  
Weeks Group Investment



# **ATTACHMENT 2**

## **Municipal Code Section 15.72.050**

## 15.72.050 - Waiver of fees.

- A. The city council may waive the requirement for the payment of the following listed fees:
1. Miscellaneous development fees described in Chapter 15.72 of this Code;
  2. Bridge and major thoroughfare fees described in Chapter 12.08 of this Code;
  3. Open space and park fee described in Chapter 15.68 of this Code;
  4. Water, sanitation and sewage connection fees established pursuant to Chapter 13.08 of this Code;
  5. Fees and service charges described in Chapter 3.36 of this Code;
  6. Any other fee as deemed just and proper by the city council.
- B. Findings. The city council shall make one or more of the following findings before waiving the requirement for payment of any of the above listed fees:
1. The fee is not required for the payment of any outstanding indebtedness of the city, whether such debt is owed to third parties or is intradepartmental, or of any assessment district in the city; and
  2. The fee is not required for the ongoing expenses of any assessment district in the city; and
  3. The waiver of the fee will not have an adverse fiscal impact on the ongoing operations of the city; and
  4. That the waiver does not create a gift of public funds to the beneficiary of the waiver in that by such waiver the city will derive a benefit of equal or greater value from the beneficiary; or
  5. The fee was not properly collected by the city, through no fault of the beneficiary; or
  6. The city council finds that the fee, or the amount of the fee, is not properly chargeable to the beneficiary under the applicable law.
- C. Procedure.
1. The fee may be waived only upon the written request of the beneficiary for such waiver. The request may be contained in an appeal of a related matter, or may be inferred from the nature of a request otherwise presented to the city council in writing.
  2. The fee may be waived only following a public hearing on the matter. The findings of the city council shall be contained in the record of such public hearing.
  3. The grant of such waiver constitutes the exercise of the legislative discretion of the city council. Nothing contained in this section shall be construed as requiring the city council to make a grant of a waiver, or to make findings with respect to the denial of such grant. The grant of a waiver to the same or similarly situated persons under the same or similar circumstances shall not be deemed to be grounds for the future grant of a waiver to the same or similarly situated persons.



(Code 1965, § 22E-5.)

# **ATTACHMENT 3**

Resolution 2018-140



## RESOLUTION 2018-140

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING FEE WAIVER IN FAVOR OF WEEKS INVESTMENT GROUP AND ZENNER PERFORMANCE METERS IN AN AMOUNT NOT TO EXCEED \$17,840 FOR FEES RELATING TO A GENERAL PLAN AMENDMENT, ZONE CHANGE, AND ENVIRONMENTAL ASSESSMENT

**WHEREAS**, Banning Municipal Code Section 15.72.050 C defines the procedure for waiving fees, requiring: a written request by the beneficiary of such waiver; the request must be brought forward as a public hearing and at least one of six findings must be made; and the City Council is the authority in waiving such fee; and

**WHEREAS**, on September 13<sup>th</sup>, a fee waiver request was submitted to the City by Weeks Investment Group and Zenner Performance Meters for a General Plan Amendment, Zone Change, and Environmental Assessment; and

**WHEREAS**, the City Council opened a public hearing and received testimony on November 13<sup>th</sup>, 2018 relating to a fee waiver of certain development-related fees; and

**WHEREAS**, pursuant to Banning Municipal Code Section 15.72.050 B(4), the City Council hereby makes a finding that the requested fee waiver does not create a gift of public funds to the beneficiary of the waiver in that by such waiver the city will derive a benefit of equal or greater value from the beneficiaries; and

**WHEREAS**, the City Council hereby authorizes full waiver of fees in an amount not to exceed \$17,840; and

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

**SECTION 1.** The Banning City Council adopts Resolution 2018-140, Approving Waiver of Fees in Favor of Weeks Investment Group and Zenner Performance Meters for General Plan Amendment, Zone Change, and Environmental Assessment.

**SECTION 2.** The Administrative Services Director or designee is authorized to make necessary budget adjustments, appropriations and transfers.

**PASSED, APPROVED AND ADOPTED** this 13th day of November, 2018.

---

George Moyer, Mayor  
City of Banning

**ATTEST:**

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Laurie Sampson, Acting Deputy City Clerk  
City of Banning

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

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



**CERTIFICATION:**

I, Laurie Sampson, Acting Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-140, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 13<sup>th</sup> day of November, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Laurie Sampson, Acting Deputy City Clerk  
City of Banning, California

# **ATTACHMENT 4**

Resolution 2018-141



## **RESOLUTION 2018-141**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DENYING FEE WAIVER IN FAVOR OF WEEKS INVESTMENT GROUP AND ZENNER PERFORMANCE METERS FOR \$17,840 RELATING TO A GENERAL PLAN AMENDMENT, ZONE CHANGE, AND ENVIRONMENTAL ASSESSMENT**

**WHEREAS**, Banning Municipal Code Section 15.72.050 C defines the procedure for waiving fees, requiring: a written request by the beneficiary of such waiver; the request must be brought forward as a public hearing and at least one of six findings must be made; and the City Council is the authority in waiving such fee; and

**WHEREAS**, on September 13<sup>th</sup>, a fee waiver request was submitted to the City by Weeks Investment Group and Zenner Performance Meters for a General Plan Amendment, Zone Change, and Environmental Assessment; and

**WHEREAS**, the City Council opened a public hearing and received testimony on November 13<sup>th</sup>, 2018 relating to a fee waiver of certain development-related fees; and

**WHEREAS**, pursuant to Banning Municipal Code Section 15.72.050 B(4), the City Council hereby does not find sufficient evidence provided by the beneficiaries or through public testimony to make a finding that the requested fee waiver does not create a gift of public funds to the beneficiary of the waiver in that by such waiver the city will derive a benefit of equal or greater value from the beneficiaries; and

**WHEREAS**, the City Council hereby denies the waiver of fees requested by Weeks Investment Group and Zenner Performance Meters, received on September 13<sup>th</sup>, 2018; and

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

**SECTION 1.** The Banning City Council adopts Resolution 2018-141, Denying Waiver of Fees in Favor of Weeks Investment Group and Zenner Performance Meters for Development-related Fees.

**PASSED, APPROVED AND ADOPTED** this 13th day of November, 2018.

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George Moyer, Mayor  
City of Banning

**ATTEST:**

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Laurie Sampson, Acting Deputy City Clerk  
City of Banning

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

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



**CERTIFICATION:**

I, Laurie Sampson, Acting Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-141, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 13<sup>th</sup> day of November, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Laurie Sampson, Acting Deputy City Clerk  
City of Banning, California

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## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Maryann Marks, Interim Community Development Director  
Maricela Marroquin, City Attorney

**MEETING DATE:** November 13, 2018

**SUBJECT:** Resolution 2018-143, Public Hearing and Consideration of Adopting Application and Processing Fees for Cannabis Regulatory Permits and Cannabis Conditional Use Permits

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### **RECOMMENDED ACTION:**

1. Staff recommends that the City Council open and conduct a public hearing regarding the proposed adoption of cannabis regulatory permit and conditional use permit fees.
2. Staff recommends that the City Council, by motion, adopt Resolution No. 2018-143, a Resolution of the City Council of the City of Banning Adopting Application and Processing Fees for Cannabis Regulatory Permits and Cannabis Conditional Use Permits.

### **BACKGROUND:**

On November 6, 2018, the Banning voters approved Measures N and O which allow the City to impose a general tax on cannabis businesses. Measure N imposes a general tax on cannabis cultivation, manufacturing, and testing laboratory facilities. Measure O imposes a general tax on cannabis retail businesses. These taxes will go into effect January 1, 2019.

On July 10, 2018, the City Council adopted Ordinance 1523 which added Chapter 17.53 to the Zoning Code to zone for and allow for the issuance of conditional use permits to cannabis cultivation, manufacturing, and testing laboratory facilities. At the same

meeting, the City Council also adopted Ordinance 1524, which added Chapter 5.33 to the Municipal Code to establish procedures for the issuance of cannabis regulatory permits. Both Ordinances 1523 and 1524 provided that they would go into effect January 1, 2019, contingent upon the voter's approval of

Measure N which approved a tax on these businesses. Ordinances 1523 and 1524 both provide that the City Council shall establish, by resolution, fees for processing cannabis regulatory and conditional use permits for these businesses.

On October 23, 2018, the City Council conducted the first reading of Ordinance 1531 which will add Chapter 17.54 to the Zoning Code to zone for and allow for the issuance of conditional use permits to cannabis retailers. At the same meeting, the City Council also conducted first reading of Ordinance 1527, which will add Chapter 5.34 to the Municipal Code to establish procedures for the issuance of regulatory permits to cannabis retailers. The second reading of these ordinances is scheduled for the November 13, 2018 City Council meeting. Both Ordinance 1531 and 1527 provide that they will go into effect January 1, 2019, contingent upon the voter's approval of Measure O. These two ordinances also provide that the City Council shall establish, by resolution, fees for processing cannabis regulatory and conditional use permits for these businesses.

Both Measures O and N were adopted by the voters, which means that beginning January 1, 2019, the City may begin processing cannabis regulatory and conditional use permit applications for the above-referenced businesses.

Government Code section 66000, *et seq.*, allows local agencies to charge fees for processing regulatory permits and land use entitlements as long as those fees do not exceed the estimated reasonable costs of providing the service for which the fee is intended. Staff was tasked with analyzing the reasonable costs associated with processing cannabis regulatory and conditional use permit applications.

## **ANALYSIS:**

### **Cannabis Regulatory Permits**

Ordinances 1524 and 1527 provide that the City Manager, in consultation with the Chief of Police, will determine whether to issue regulatory permits to cannabis businesses. In evaluating whether to issue a regulatory permit to a cannabis business, City personnel will need to:

- Fingerprint the cannabis business owner and conduct a background check;
- Determine whether the applicant, owner, or any person with a financial interest in the cannabis business has unpaid or overdue administrative penalties or a civil judgment owed to the City;



- Determine whether the applicant, owner, or any person with a financial interest in the cannabis business has, within the last five years, been convicted of engaging in unlawful commercial cannabis activity, been issued an uncontested administrative citation by the city or county for engaging in unlawful commercial cannabis activity, or been the subject of a lawsuit for engaging in unlawful commercial cannabis activity where the applicant or owner was not the prevailing party;
- Determine whether the applicant, owner, or any person with a financial interest in the cannabis business has been convicted of certain crimes;
- Verify that the proposed cannabis business is not located within 600 feet of a school, day care center, youth center or park, or within 200 feet of residentially zoned property. For cannabis retailers, staff will need to also verify that the cannabis retailer is not located within 1,000 feet of another cannabis retail business;
- Review the detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the premises of the cannabis business;
- Review the detailed plan describing the air treatment system, or other methods which will be implemented, to completely prevent odors generated from cannabis from being detected outside the buildings on the cannabis business site; and
- Determine whether the premises or the operation of the applicant's cannabis business, as described in its application, would fail to comply with any provision of the Banning Municipal Code, or any state law or regulation.

In addition, City personnel will need to determine whether all the information required by the application has been submitted including, but not limited to, complete owner information, business information, information pertaining to the business' legal structure including any formation and organization documents, letter of consent to use the property for a cannabis business if the property is not owned by the applicant, or a copy of the deed if the applicant owns the property.

The City retained Wildan Financial Services to review and conduct an independent, detailed analysis of the full costs incurred by the City to support the various activities for which the City charges user fees. On March 9, 2018, Wildan Financial Services issued a Comprehensive User Fee Study report ("User Fee Study") that analyzed, among other things, the full cost of providing City services, including direct salaries and benefits of City staff, direct departmental costs, and indirect costs from central support services. Appendix B of the User Fee Study contains the fully burdened hourly rates of staff. Staff relied upon the data contained in Appendix B of the User Fee Study in calculating the costs that the City would incur in processing regulatory permits for cannabis businesses. The User Fee Study is on file with the City and Appendix B of the User Fee Study is attached hereto as Attachment A.



Staff analyzed the costs for processing a regulatory permit application for a cannabis retailer. The break-down of those costs is contained in Attachment B entitled "Cannabis Retailer Regulatory Permit Fees." Based upon the information contained in Attachment B, staff proposes that the regulatory permit fee for cannabis retailers be set at \$5,000.

Staff also analyzed the costs for processing a regulatory permit application for cannabis cultivation, manufacturing and testing laboratory facilities. The break-down of those costs is contained in Attachment C entitled "Regulatory Permit Fees for Cannabis Cultivation, Manufacturing, and Testing Laboratory Facilities." Based upon the information contained in Attachment C, staff proposes that the regulatory permit fee for cannabis cultivation, manufacturing, and testing laboratory facilities be set at \$4,700.

#### Cannabis Conditional Use Permit Ordinance

Given that the City has never processed cannabis conditional use permits, it is unknown how much staff time will be spent on processing these applications. Therefore, staff determined that the best approach would be to establish the fees based on a deposit amount which is estimated to reasonably reflect the actual cost of processing the cannabis conditional use permit application.

Under this type of fee structure, the applicant must submit the full deposit amount before the City will begin processing the application. City staff proposes that the following process be followed with respect to deposits. City staff will be responsible for accurately accounting for all charges made against the deposit amount. When 75 percent of the deposit has been expended, and the department in which the deposit was posted determines that the estimated actual cost of the processing the application will exceed the amount deposited, an additional deposit of such estimated excess amount shall be required. City staff shall mail a notice to the applicant specifying the additional deposit required, and the applicant shall deposit such additional required amount prior to the date specified in the notice. When an additional deposit has been requested, staff will suspend processing the application when 95 percent of the deposit previously received has been expended. Applications will not be approved, and applications will not be deemed complete with money due. If the additional deposit is not made by the date specified in the notice, the application shall be deemed denied, on the date specified in the notice, without further action on the part of the City.

A cannabis conditional use permit application will require staff to review the application to ensure that the following criteria and standards for issuance of the conditional use permit have been satisfied:

- A business operating plan that meets the standards set forth in the Municipal Code;
- A business plan that includes plans for cash handling and transportation of cannabis and cannabis products to and from the premises;

- A detailed security plan and adequate security measures, including video surveillance;
- Information regarding on-site community relations representative;
- No outdoor storage of cannabis and that all cannabis activities are not be visible from the exterior of any structure, facility, or building;
- Loading areas and loading docks that are located on the side or rear of the lot, and that are screened by solid, decorative walls;
- Plans to ensure that all commercial cannabis activity is separated from the main entrance and lobby;
- A premises that meets any square footage requirements set forth in the Municipal Code;
- A building with a main entrance that is clearly visible from the public street or sidewalk;
- Signage that meets the requirements set forth in the Municipal Code;
- A ventilation and filtration system that prevents cannabis plant odors from exiting the interior of the structure; and
- Hours of operation that meet the requirements set forth in the Municipal Code.

Staff analyzed the costs for processing a cannabis conditional use permit application, and determined that the initial deposit amount to process a cannabis conditional use permit should be set at \$10,000. This amount was based on the hourly rates for City staff that will be directly involved in processing the application. The hourly rates were obtained from the User Fee Study. The break-down of those costs is contained in Attachment D entitled "Cannabis Conditional Use Permit Fees." The hourly City staff rates that will be charged to the applicant are also set forth in Attachment D.

#### **PUBLIC COMMUNICATION:**

This public hearing was advertised in the Record Gazette newspaper on November 2, 2018 and November 9, 2018.

#### **OPTIONS:**

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

**ATTACHMENTS:**

1. Appendix B to Willdan Financial Services Comprehensive User Fee Study
2. Cannabis Retailer Regulatory Permit Fee
3. Regulatory Permit Fees for Cannabis Cultivation, Manufacturing, and Testing Laboratory Facilities
4. Cannabis Conditional Use Permit Fee
5. Resolution No. 2018-143

Approved by:

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Douglas Schulze  
City Manager



# **ATTACHMENT 1**

## **Appendix B to Willdan Financial Services Comprehensive User Fee Study**

## APPENDIX B – FULLY BURDENED HOURLY RATES

Below are fully burdened hourly rates of staff positions that provide for the services detailed in Appendix C. The FBHRs were used to determine the full cost of each service. They include the salary and benefit costs for each position as well as all applicable overhead amounts for each position. For positions in central service departments, such as the City Clerk and Finance, what is shown is the salary and benefit rate only, as the overhead of central service departments is recovered through the cost allocation plan. When a central service department position works on a fee or project in the purview of an operating department, the overhead rates of the operating department (shown in Appendix A) will be applied to that central service positions' salary and benefit rate for full cost recovery. For any user fee service request that is outside the scope of the fees detailed in Appendix C, or for services for which there is no fee currently set, the City can charge up to the full cost of the FBHR for personnel involved.

### City of Banning, CA

#### Fully Burdened Hourly Rate Calculation

Department	Position	Fully Burdened Hourly Rate
<b>Position Rates</b>		
600: Airport Fund	Airport Fund- Airport Attendant	34.88
001: Aquatics	Aquatics- Community Center Caretaker	52.97
001: Aquatics	Aquatics - Pool Manager	21.07
001: Aquatics	Aquatics - Assist Pool Manager	21.07
001: Aquatics	Aquatics - Lifeguards	19.91
001: Aquatics	Aquatics - Cashier	18.18
001: Building Safety	Building Safety- Office Specialist	40.94
001: City Clerk	City Clerk- City Clerk/Executive Assistant	59.98
001: City Manager	City Manager- City Manager	154.65
001: City Manager	City Manager- Exec Asst/Deputy City Clerk	46.21
001: Code Enforcement	Code Enforcement- Code Compliance Officer	67.54
003: County of Riverside - MOU	County of Riverside - Police Officer	47.73
001: Dispatch	Dispatch- Lead Public Safety Dispatcher	56.17
001: Dispatch	Dispatch- Public Safety Dispatcher	44.77
001: Economic Development	Economic Development- Economic Development Manager	189.58
001: Engineering	Engineering- Associate Engineer W/Certif.	128.97
001: Engineering	Engineering- Management Analyst	99.49
001: Engineering	Engineering- Public Works Inspector	88.08
001: Engineering	Engineering- Senior Civil Engineer	111.34
001: Fiscal Services	Fiscal Services- Accountant	45.78
001: Fiscal Services	Fiscal Services- Accountant II	54.08
001: Fiscal Services	Fiscal Services- Accounting Specialist	42.55
001: Fiscal Services	Fiscal Services- Administrative Services Director	134.73
001: Fiscal Services	Fiscal Services- City Treasurer	9.67
001: Fiscal Services	Fiscal Services- Finance Manager	75.42
001: Fiscal Services	Fiscal Services- Financial Services Specialist	44.39
001: Fiscal Services	Fiscal Services- P.T Financial Services Specialist	29.28

## City of Banning, CA

### Fully Burdened Hourly Rate Calculation

Department	Position	Fully Burdened Hourly Rate
Position Rates		
100: Gas Tax Street Fund	Gas Tax Street Fund- Motor Sweeper Operator	68.42
100: Gas Tax Street Fund	Gas Tax Street Fund- Senior Maintenance Worker	60.74
100: Gas Tax Street Fund	Gas Tax Street Fund- Work Release Crew Leader	64.72
703: Information Systems Services	Information Systems - Information Technol/Media Tech	80.86
703: Information Systems Services	Information Systems - Information Technology Manager	95.46
001: Parks	Parks- Maintenance Worker	44.77
001: Parks	Parks- Public Works Superintendent	114.01
001: Planning	Planning- Community Development Dir	127.82
001: Planning	Planning- Development Project Coordinator	62.05
001: Planning	Planning- Senior Planner	92.74
001: Police	Police- Executive Assistant	61.24
001: Police	Police- Police Assistant I	40.26
001: Police	Police- Police Assistant li	48.83
001: Police	Police- Police Captain	128.26
001: Police	Police- Police Chief	154.89
001: Police	Police- Police Corporal	82.78
001: Police	Police- Police Information Technol.Tec	64.15
001: Police	Police- Police Officer	68.56
001: Police	Police- Police Seargant	87.73
001: Police	Police- Police Staff Seargant	86.92
001: Police	Police- Police Lieutenant	120.48
675: Public Benefit Fund	Public Benefit Fund- Utility Services Assistant	56.88
001: Purchasing & A/P	Purchasing & A/P- Financial Service Specialist	50.50
001: Purchasing & A/P	Purchasing & A/P- Purchasing Manager	71.54
001: Recreation	Recreation- P.T Receptionist	15.06
001: Recreation	Recreation - Leader	18.10
001: Recreation	Recreation - Senior Recreation Leader	16.59
001: Recreation	Recreation - Recreation Sports Leader	20.24
001: Recreation	Recreation- Program Coordinator	53.38
690: Refuse Fund	Refuse Fund- Public Information Officer	74.83
610: Transit Fund	Transit Fund- Bus Driver	50.19
610: Transit Fund	Transit Fund- Community Services Director	120.28
610: Transit Fund	Transit Fund- Community Services Manager	85.62
610: Transit Fund	Transit Fund- Executive Secretary	55.03
610: Transit Fund	Transit Fund - Part Time Bus Driver	23.26
610: Transit Fund	Transit Fund - Dial-a-ride	23.26
610: Transit Fund	Transit Fund- Transit Field Supervisor	67.18
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Customer Service&Billing Manager	75.85
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Field Service Representative	64.56
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Lead Field Service Rep.	72.09



## City of Banning, CA

### Fully Burdened Hourly Rate Calculation

Department	Position	Fully Burdened Hourly Rate
<b>Position Rates</b>		
100: Gas Tax Street Fund	Gas Tax Street Fund- Motor Sweeper Operator	68.42
100: Gas Tax Street Fund	Gas Tax Street Fund- Senior Maintenance Worker	60.74
100: Gas Tax Street Fund	Gas Tax Street Fund- Work Release Crew Leader	64.72
703: Information Systems Services	Information Systems - Information Technol/Media Tech	80.86
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Management Analyst	40.17
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Office Specialist	40.12
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Sr. Utility Billing Representative	62.46
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Utility Billing Representative	48.16
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Utility Financial Analyst	111.46
761: Utility Billing, Acct & Coll Services	Utility Billing, Acc- Utility Services Assistant	62.90
680: Wastewater Fund	Wastewater Fund- Wastewater Coll.Sys.Supv	99.34
680: Wastewater Fund	Wastewater Fund- Wastewater Collect.Syst.Tech.	75.36
660: Water Fund	Water Fund- Office Specialist	42.02
660: Water Fund	Water Fund- Public Works Director	154.67
660: Water Fund	Water Fund- Senior Civil Engineer	80.74
660: Water Fund	Water Fund- Water Crew Leader	67.41
660: Water Fund	Water Fund- Water Crew Supervisor	72.64
660: Water Fund	Water Fund- Water Production Operator Ij	68.54
660: Water Fund	Water Fund- Water Services Float	34.20
660: Water Fund	Water Fund- Water Services Worker	49.72
660: Water Fund	Water Fund- Water/Wastewater Superintendent	106.96
670: Electric Fund	Electric Fund- Associate Electrical Engineer	109.74
670: Electric Fund	Electric Fund- Electric Meter Test Technician	108.55
670: Electric Fund	Electric Fund- Electric Operations Manager	130.27
670: Electric Fund	Electric Fund- Electric Service Planner	113.43
670: Electric Fund	Electric Fund- Electric Services Worker	34.30
670: Electric Fund	Electric Fund- Electric Utility Director	193.50
670: Electric Fund	Electric Fund- Management Analyst	74.16
670: Electric Fund	Electric Fund- Powerline Apprentice I	84.55
670: Electric Fund	Electric Fund- Powerline Crew Supervisor	118.94
670: Electric Fund	Electric Fund- Powerline Technician	108.72
670: Electric Fund	Electric Fund- Pwr Resources & Rev Administra	109.45
670: Electric Fund	Electric Fund- Sr. Electric Service Planner	118.85
670: Electric Fund	Electric Fund- Substation Test Technician	108.71
670: Electric Fund	Electric Fund- Utility Engineering Svcs Asst	60.86
670: Electric Fund	Electric Fund- Warehouse Services Specialist	66.27

# **ATTACHMENT 2**

## **Cannabis Retailer Regulatory Permit Fee**

# CANNABIS RETAILER REGULATORY PERMIT

Intake	Planning Admin	1	\$	62.05	\$	62.05
Application review for completeness	Senior Planner	1.5	\$	92.74	\$	139.11
Financial background check	Finance	3	\$	75.42	\$	226.26
Criminal background check	Police Department	3	\$	128.26	\$	384.78
Planning Department project review	Senior Planner	2	\$	92.74	\$	185.48
Planning Department Background check	Senior Planner	2	\$	92.74	\$	185.48
Director review and approval	CDD	1.5	\$	127.82	\$	191.73
Site location review	Senior Planner	2.5	\$	92.74	\$	231.85
Site location review	Police Department	2	\$	128.26	\$	256.52
Site location review	Public Works	3	\$	183.33	\$	549.99
Site location review & Security system review	Electric	2.5	\$	113.43	\$	283.58
Security Plan Review	Police Department	2	\$	128.26	\$	256.52
Engineer/Public Works Director	Engineering	1.5	\$	129.97	\$	194.96
Site location review	Building	1	\$	183.33	\$	183.33
Review air treatment system & waste water disposal plans	Public Works	2	\$	183.33	\$	366.66
Site location review	Fire	1	\$	116.51	\$	116.51
Business License/Permit - -fingerprint	Police Department	1	\$	128.26	\$	128.26
Business License/Permit -background check	Police Department	2.5	\$	128.26	\$	320.65
Business License/Permit - Final Review	Police Department	1.5	\$	128.26	\$	192.39
Business License Permit - Final Review	City Manager	1	\$	154.65	\$	154.65
Business License/Permit - Issue	Finance	1	\$	75.42	\$	75.42
Lottery/Accounting Services	Accounting Firm	1	\$	\$300	\$	300.00
TOTAL					\$	4,986.17



# **ATTACHMENT 3**

## **Regulatory Permit Fees for Cannabis Cultivation, Manufacturing, and Testing Laboratory Facilities**

**REGULATORY PERMIT FOR CANNABIS CULTIVATION, MANUFACTURING, TESTING LABORATORY FACILITIES**

Intake	Planning Admin	1	\$	62.05	\$	62.05
Application review for completeness	Senior Planner	1.5	\$	92.74	\$	139.11
Financial background check	Finance	3	\$	75.42	\$	226.26
Criminal background check	Police Department	3	\$	128.26	\$	384.78
Planning Department project review	Senior Planner	2	\$	92.74	\$	185.48
Planning Department Background check	Senior Planner	2	\$	92.74	\$	185.48
Director review and approval	CDD	1.5	\$	127.82	\$	191.73
Site location review	Senior Planner	2.5	\$	92.74	\$	231.85
Site location review	Police Department	2	\$	128.26	\$	256.52
Site location review	Public Works	3	\$	183.33	\$	549.99
Site location review & Security system review	Electric	2.5	\$	113.43	\$	283.58
Security Plan Review	Police Department	2	\$	128.26	\$	256.52
Engineer/Public Works Director	Engineering	1.5	\$	129.97	\$	194.96
Site location review	Building	1	\$	183.33	\$	183.33
Review air treatment system & waste water disposal plans	Public Works	2	\$	183.33	\$	366.66
Site location review	Fire	1	\$	116.51	\$	116.51
Business License/Permit - -fingerprint	Police Department	1	\$	128.26	\$	128.26
Business License/Permit -background check	Police Department	2.5	\$	128.26	\$	320.65
Business License/Permit - Final Review	Police Department	1.5	\$	128.26	\$	192.39
Business License/Permit - Final Review	City Manager	1	\$	154.65	\$	154.65
Business License/Permit - Issue	Finance	1	\$	75.42	\$	75.42
TOTAL					\$	4,686.17

# **ATTACHMENT 4**

## **Cannabis Conditional Use Permit Fee**



## CANNABIS CONDITIONAL USE PERMIT

## INITIAL INTAKE

FEE/COST

STAFF

HOURS

\$

ESTIMATE

Receive fee, assign case number	Planning Admin	1	\$	62.05	\$	62.05
Assign case to planner	CD DIR	0.5	\$	127.82	\$	63.91
					\$	-

## PLANNER PREPARES CASE FOR PLANNING COMMISSION

Reviews file for completeness	Senior Planner	4	\$	92.74	\$	370.96
Drafts 1st incomplete letter	Senior Planner	1	\$	84.34	\$	84.34
Receives and Routes 1st RE-Submission	Planning Admin	1	\$	62.05	\$	62.05
Reviews resubmission for completeness	Senior Planner	4	\$	92.74	\$	370.96
Drafts transmittal form	Senior Planner	0.5	\$	92.74	\$	46.37
Routes to all Departments for Review	Planning Admin	1	\$	62.05	\$	62.05
Prep circulation for ND/MND/EIR	Senior Planner	1.5	\$	92.74	\$	139.11
Circulate ND/MND (DPC)	Planning Admin	0.5	\$	62.05	\$	31.03
Draft scope for RFP	Senior Planner	3.5	\$	92.74	\$	324.59
Review RFP Submissions	Senior Planner	5	\$	92.74	\$	463.70
RFP Contract Oversight	Senior Planner	8	\$	92.74	\$	741.92
Review Plans	Building Inspector	1	\$	183.33	\$	183.33
Review Plans	Engineering	4	\$	128.97	\$	515.88
Review Plans	Fire	1	\$	116.51	\$	116.51
Review Plans	Electric	1	\$	113.43	\$	113.43
Review Plans	Public Works	3	\$	67.54	\$	202.62
Review Plans	Police Department	1	\$	128.26	\$	128.26
Tribal Consultation	Senior Planner	1	\$	92.74	\$	92.74
Reviews all feedback from all departments	Senior Planner	2	\$	92.74	\$	185.48
Drafts 2nd review comments	Senior Planner	0.5	\$	92.74	\$	46.37
Receives and Routes 2nd RE Submission	Planning Admin	0.5	\$	62.05	\$	31.03
Reviews 2nd resubmission for completeness	Senior Planner	1	\$	92.74	\$	92.74
Review Plans	Engineering	2	\$	128.97	\$	257.94
Review Plans	Fire	0.5	\$	116.51	\$	58.26
Review Plans	Electric	0.5	\$	113.43	\$	56.72
Review Plans	Public Works	2	\$	183.33	\$	366.66
Onsight inspection	Police Department	2	\$	128.26	\$	256.52
Makes Findings	Senior Planner	3	\$	92.74	\$	278.22
Drafts Conditions	Senior Planner	3.5	\$	92.74	\$	324.59
Drafts Staff Report	Senior Planner	6	\$	92.74	\$	556.44
Schedules Planning Commission Date/Informs applicant	Senior Planner	1	\$	92.74	\$	92.74
					\$	-

## PRE-PLANNING COMMISSION

Drafts Neighbor Notices and Postings	Senior Planner	1.5	\$	92.74	\$	139.11
Sends draft report to attorney	Senior Planner	1	\$	92.74	\$	92.74
Revises report per attorney feedback	Senior Planner	0.5	\$	92.74	\$	46.37

CANNABIS CONDITIONAL USE PERMIT			FEE/COST		ESTIMATE
	STAFF	HOURS	\$	\$	
Mail out notices and post on the project parcel	Planning Admin	3	\$ 62.05	\$	186.15
Request Newspaper Notification	Senior Planner	0.5	\$ 92.74	\$	46.37
Process Newspaper Notification	Planning Admin	0.5	\$ 62.05	\$	31.03
Complete Powerpoint	Senior Planner	2.5	\$ 92.74	\$	231.85
Planning Commission Meetings (one-on-one)	Senior Planner	5.5	\$ 92.74	\$	510.07
Revise Conditions	Senior Planner	1	\$ 92.74	\$	92.74
<b>PLANNING COMMISSION HEARING</b>					
Staff presents project to Planning Commission	Senior Planner	2.5	\$ 92.74	\$	231.85
<b>POST PLANNING COMMISSION HEARING</b>					
Revise staff report to reflect Planning Commission review, comments and determination for the project	Senior Planner	1.5	\$ 92.74	\$	139.11
Schedule subsequent Planning Commission hearing or City Council Meeting				\$	-
Revise Conditions	Senior Planner	1	\$ 92.74	\$	92.74
<b>CITY COUNCIL HEARING</b>					
Drafts Neighbor Notices and Postings	Planning Admin	1	\$ 62.05	\$	62.05
Revise rpt & send draft to attorney	CD DIR	2.5	\$ 127.82	\$	319.55
Revises report per attorney feedback	CD DIR	0.5	\$ 127.82	\$	63.91
Mail out notices and post on the project parcel	Planning Admin	2	\$ 62.05	\$	124.10
Request Newspaper Notification	CD DIR	0	\$ 127.82	\$	-
Process Newspaper Notification	Planning Admin	0.5	\$ 62.05	\$	31.03
Complete Powerpoint	CD DIR	2	\$ 127.82	\$	255.64
Presents to City Council	CD DIR	1	\$ 127.82	\$	127.82
<b>POST CITY COUNCIL HEARING</b>					
Upload Resolution	City Clerk	1	\$ 59.89	\$	59.89
Drafts Approval Letter	Senior Planner	1	\$ 92.74	\$	92.74
File Closure Prep.	Senior Planner	1	\$ 92.74	\$	92.74
File Closure	Planning Admin	0.5	\$ 62.05	\$	31.03
Revise Conditions - Final	Senior Planner	1	\$ 92.74	\$	92.74
				\$	9,972.85

STAFF HOURLY RATE		RATE
SENIOR PLANNER		\$ 92.74
ASSOCIATE PLANNER		\$ 84.34
CITY ATTORNEY		\$ 200.00
CITY CLERK		\$ 59.98
PLANNING ADMINISTRATOR		\$ 62.05



# CANNABIS CONDITIONAL USE PERMIT

CODE ENFORCEMENT OFFICER  
 CODE ENFORCEMENT DIRECTOR  
 COMMUNITY DEVELOPMENT DIRECTOR  
 ECONOMIC DIRECTOR  
 ENGINEER/ PUBLIC WORKS DIRECTOR  
 ENGINEERING ADMINISTRATOR  
 SPECIALTY CONSULTANTS (EIR)  
 FIRE MARSHAL  
 SR. BUILDING INSPECTOR  
 BUILDING INSPECTOR/PLAN CHECKER  
 FINANCE MANAGER  
 ELECTRIC (PLANNER)  
 POLICE CAPTAIN  
 POLICE SEARGANT  
 CITY MANAGER

FEE/COST \$ ESTIMATE

HOURS

STAFF

\$	67.54
\$	127.82
\$	189.58
\$	128.97
\$	88.08
\$	116.51
\$	183.33
\$	150.00
\$	75.42
\$	113.43
\$	128.26
\$	87.73
\$	154.65



# **ATTACHMENT 5**

## **Resolution 2018-143**

## RESOLUTION NO. 2018-146

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING ADOPTING APPLICATION AND PROCESSING FEES FOR CANNABIS REGULATORY PERMITS AND CANNABIS CONDITIONAL USE PERMITS

#### THE CITY COUNCIL OF THE CITY OF BANNING DOES RESOLVE AS FOLLOWS:

**Section 1. Findings:** The City Council of the City of Banning hereby finds, determines and declares that:

(a) On June 26, 2018, the City Council adopted Resolution No. 2018-82 calling for the placement of two measures on the ballot of the November 6, 2018 municipal election to (1) adopt an ordinance imposing a general tax on commercial cannabis cultivation, manufacturing, and testing laboratory facilities (which later became Measure N), and (2) adopt an ordinance imposing a general tax on cannabis retail businesses (which later became Measure O);

(b) On July 10, 2018, the City Council adopted Ordinance 1523, which added Chapter 17.53 to the Zoning Code to zone for and allow for the issuance of conditional use permits to cannabis cultivation, manufacturing, and testing laboratory facilities. At the same meeting, the City Council also adopted Ordinance 1524 which added Chapter 5.33 to the Municipal Code to establish procedures for the issuance of regulatory permits to cannabis cultivation, manufacturing, and testing laboratory facilities. Both Ordinance 1523 and 1524 provided that they would go into effect January 1, 2019, but only if Measure N was adopted by the voters on November 6, 2018;

(c) On October 23, 2018, the City Council conducted the first reading of Ordinance 1531, which will add Chapter 17.54 to the Zoning Code to zone for and allow for the issuance of conditional use permits to cannabis retailers. At the same meeting, the City Council also conducted first reading of Ordinance 1527 which will add Chapter 5.34 to the Municipal Code to establish procedures for the issuance of regulatory permits to cannabis retailers. Both Ordinances 1531 and 1527 provide that they will go into effect January 1, 2019, but only if Measure O was adopted by the voters on November 6, 2018;

(d) Ordinance 1523 provides that a conditional use permit application for a cannabis cultivation, manufacturing or testing laboratory facility shall not be processed unless the applicant pays the nonrefundable application fee in the amount to be established by resolution of the City Council;

(e) Ordinance 1524 provides that a regulatory permit shall not be issued to a cannabis cultivation, manufacturing or testing laboratory facility unless the applicant pays the nonrefundable application fee in an amount to be established by resolution of the City Council;



(f) Ordinance 1531 states that a conditional use permit application for a cannabis retailer shall not be processed unless the applicant pays the nonrefundable application fee in an amount to be established by resolution of the City Council;

(g) Ordinance 1527 states that a regulatory permit shall not be issued to a cannabis retailer unless the applicant pays the nonrefundable application fee in an amount to be established by resolution of the City Council;

(h) Measure O and Measure N were both adopted by the voters at the November 6, 2018 municipal election;

(i) Government Code Section 66000 *et seq.* allows local agencies to charge fees for processing regulatory permits and land use entitlements as long as those fees do not exceed the estimated reasonable costs of providing the service for which the fee is intended. The City Council has determined that it is necessary to assess fees for processing cannabis conditional use permits and cannabis regulatory permits;

(j) The City retained Wildan Financial Services to review and conduct an independent, detailed analysis of the full costs incurred by the City to support the various activities for which the City charges user fees. On March 9, 2018, Wildan Financial Services issued a Comprehensive User Fee Study report ("User Fee Study") that analyzed, among other things, the full cost of providing City services, including direct salaries and benefits of City staff, direct departmental costs, and indirect costs from central support services. Appendix B of the User Fee Study contains the fully burdened hourly rates of staff. These hourly rates were used to calculate the fee amounts set forth in this Resolution;

(k) Staff analyzed the costs for processing a regulatory permit application for cannabis retailers, and cannabis cultivation, manufacturing, and testing laboratory facilities, based on the estimated time that the necessary staff would take to process the application and their hourly rates as set forth in the User Fee Study;

(l) Staff analyzed the costs for processing a cannabis conditional use permit application taking into account the staff time to process the application and the their hourly rates as set forth in the User Fee Study. To ensure full recovery of the City staff costs in processing the cannabis conditional use permit applications, the City will be requiring an initial deposit from the applicant and will charge the applicant for the full amount in in hourly staff time spent processing the application;

(m) Based upon the User Fee Study and the analysis conducted by staff, the City has (i) identified the purpose of the proposed fees, (ii) identified the use to which the fees will be put, (iii) demonstrated a reasonable relationship between the fees' use and the types of projects on which the fees are imposed, and (iv) demonstrated a reasonable relationship between the amount of the fees and the cost attributable to processing the applications on which the fees are imposed;



(n) Pursuant to Government Code Sections 66014, 66016, 66017, and 66018, the specific fees to be charged for certain regulations, services and products must be adopted by resolution, following notice and public hearing;

(o) Notice of public hearing has been given pursuant to Government Code Section 6062a, and written notice has been provided to interested parties who filed written requests for mailed notice of meetings on new or increased development-related fees or service charges;

(p) On November 13, 2018, the City Council conducted a duly noticed public hearing, at which the public was invited to make oral and written presentations regarding the adoption of the fees as part of the regularly scheduled meeting prior to the adoption of this Resolution; and

(q) Staff has determined that the adoption of the fees set forth in this Resolution does not constitute a "project" under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15378(b)(4) because such actions involve the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The approval of the fees established in this Resolution is categorically exempt from CEQA under CEQA guidelines Section 15273 (a)(1) because the Resolution is merely establishing fees to meet the reasonable costs associated with processing the applications.

**Section 2. Cannabis Regulatory Fee Adoption.** The City Council hereby adopts a Cannabis Retailer Regulatory Permit fee in the amount of \$5,000 based on the analysis and data contained in the staff report and as shown Attachment A. The City Council hereby adopts a Cannabis Cultivation, Manufacturing, and Testing Laboratory Facility Regulatory Permit fee in the amount of \$4,700 based on the analysis and data contained in the staff report and as shown in Attachment B.

**Section 3. Cannabis Conditional Use Permit Fee Adoption.** The City Council hereby adopts a Cannabis Conditional Use Permit fee that requires an initial deposit of \$10,000, with the actual cost based upon the City's full costs of providing this service. The initial deposit amount is based on the analysis and data contained in the staff report and as shown in Attachment C. The staff hourly rates which were obtained from the User Fee Study are also contained in Attachment C.

**Section 4. Policies and Procedures.** The City Council hereby adopts the following policies and procedures for implementing the fees set forth above:

A. An applicant must submit the full deposit amount of the Cannabis Conditional Use Permit fees before the City will begin processing the application. City staff shall accurately account for all charges made against the deposit amount. When 75 percent of the deposit has been expended, and the department in which the deposit was posted determines that the estimated actual cost of the processing the application will exceed the amount deposited, an additional deposit of such estimated excess

amount shall be required. City staff shall mail a notice to the applicant specifying the additional deposit required, and the applicant shall deposit such additional required amount prior to the date specified in the notice. When an additional deposit has been requested, staff will suspend processing the application when 95 percent of the deposit previously received has been expended. Applications will not be approved, and will not be deemed complete, with money due. If the additional deposit is not made by the date specified in the notice, the application shall be deemed denied, on the date specified in the notice, without further action on the part of the City. If the department head determines that the estimated cost of processing the application is likely to be less than the initial deposit, a deposit may be required which equals the estimated cost of processing the application. The applicant shall nonetheless be responsible for payment of the City's full cost of processing the application.

B. Staff is hereby authorized and directed to establish policies and procedures for implementation of the Cannabis Regulatory Permit Fees

C. Staff is further authorized and directed to establish policies and procedures for the collection of the above-referenced fees.

**Section 5. CEQA.** The approval of the fees established in this Resolution does not constitute a "project" under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15378(b)(4) because such actions involve the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Furthermore, the approval of the fees established in this Resolution is categorically exempt from CEQA under CEQA guidelines Section 15273 (a)(1) because this Resolution is merely establishing fees to meet the reasonable costs associated with processing the applications.

**Section 6. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution or any part hereof is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion of this Resolution or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.

**Section 7. Effective Date.** The fees established by this Resolution shall become effective [insert date], which is no earlier than sixty (60) days following the adoption of this Resolution.

**PASSED, APPROVED and ADOPTED** by the City Council of the City of Banning on this 13th day of November, 2018.

---

George Moyer, Mayor  
City of Banning

**ATTEST:**

---

Laurie Sampson, Acting Deputy City Clerk  
City of Banning

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

---

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



**CERTIFICATION:**

I, Laurie Sampson, Acting Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-143, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 13th day of November, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Laurie Sampson, Acting Deputy City Clerk  
City of Banning, California

**Attachment A**  
**Cannabis Regulatory Permit Fee**

# **CANNABIS RETAILER REGULATORY PERMIT**

Intake	Planning Admin	1	\$	62.05	\$	62.05
Application review for completeness	Senior Planner	1.5	\$	92.74	\$	139.11
Financial background check	Finance	3	\$	75.42	\$	226.26
Criminal background check	Police Department	3	\$	128.26	\$	384.78
Planning Department project review	Senior Planner	2	\$	92.74	\$	185.48
Planning Department Background check	Senior Planner	2	\$	92.74	\$	185.48
Director review and approval	CDD	1.5	\$	127.82	\$	191.73
Site location review	Senior Planner	2.5	\$	92.74	\$	231.85
Site location review	Police Department	2	\$	128.26	\$	256.52
Site location review	Public Works	3	\$	183.33	\$	549.99
Site location review & Security system review	Electric	2.5	\$	113.43	\$	283.58
Security Plan Review	Police Department	2	\$	128.26	\$	256.52
Engineer/Public Works Director	Engineering	1.5	\$	129.97	\$	194.96
Site location review	Building	1	\$	183.33	\$	183.33
Review air treatment system & waste water disposal plans	Public Works	2	\$	183.33	\$	366.66
Site location review	Fire	1	\$	116.51	\$	116.51
Business License/Permit - -fingerprint	Police Department	1	\$	128.26	\$	128.26
Business License/Permit -background check	Police Department	2.5	\$	128.26	\$	320.65
Business License/Permit - Final Review	Police Department	1.5	\$	128.26	\$	192.39
Business License Permit - Final Review	City Manager	1	\$	154.65	\$	154.65
Business License/Permit - Issue	Finance	1	\$	75.42	\$	75.42
Lottery/Accounting Services	Accounting Firm	1	\$	300	\$	300.00
	TOTAL				\$	4,986.17



**Attachment B**  
**Regulatory Permit Fees for Cannabis Cultivation, Manufacturing,  
and Testing Laboratory Facilities**

**REGULATORY PERMIT FOR CANNABIS CULTIVATION, MANUFACTURING, TESTING LABORATORY FACILITIES**

Intake	Planning Admin	1	\$	62.05	\$	62.05
Application review for completeness	Senior Planner	1.5	\$	92.74	\$	139.11
Financial background check	Finance	3	\$	75.42	\$	226.26
Criminal background check	Police Department	3	\$	128.26	\$	384.78
Planning Department project review	Senior Planner	2	\$	92.74	\$	185.48
Planning Department Background check	Senior Planner	2	\$	92.74	\$	185.48
Director review and approval	CDD	1.5	\$	127.82	\$	191.73
Site location review	Senior Planner	2.5	\$	92.74	\$	231.85
Site location review	Police Department	2	\$	128.26	\$	256.52
Site location review	Public Works	3	\$	183.33	\$	549.99
Site location review & Security system review	Electric	2.5	\$	113.43	\$	283.58
Security Plan Review	Police Department	2	\$	128.26	\$	256.52
Engineer/Public Works Director	Engineering	1.5	\$	129.97	\$	194.96
Site location review	Building	1	\$	183.33	\$	183.33
Review air treatment system & waste water disposal plans	Public Works	2	\$	183.33	\$	366.66
Site location review	Fire	1	\$	116.51	\$	116.51
Business License/Permit - fingerprint	Police Department	1	\$	128.26	\$	128.26
Business License/Permit -background check	Police Department	2.5	\$	128.26	\$	320.65
Business License/Permit - Final Review	Police Department	1.5	\$	128.26	\$	192.39
Business License/Permit - Final Review	City Manager	1	\$	154.65	\$	154.65
Business License/Permit - Issue	Finance	1	\$	75.42	\$	75.42
TOTAL						\$ 4,686.17

**Attachment C**  
**Cannabis Conditional Use Permit Fees**



CANNABIS CONDITIONAL USE PERMIT				FEE/COST	
INITIAL INTAKE	STAFF	HOURS	\$	ESTIMATE	
Receive fee, assign case number	Planning Admin	1	\$ 62.05	\$	62.05
Assign case to planner	CD DIR	0.5	\$ 127.82	\$	63.91
					\$ -
<b>PLANNER PREPARES CASE FOR PLANNING COMMISSION</b>					
Reviews file for completeness	Senior Planner	4	\$ 92.74	\$	370.96
Drafts 1st incomplete letter	Senior Planner	1	\$ 84.34	\$	84.34
Receives and Routes 1st RE-Submission	Planning Admin	1	\$ 62.05	\$	62.05
Reviews resubmission for completeness	Senior Planner	4	\$ 92.74	\$	370.96
Drafts transmittal form	Senior Planner	0.5	\$ 92.74	\$	46.37
Routes to all Departments for Review	Planning Admin	1	\$ 62.05	\$	62.05
Prep circulation for ND/MND/EIR	Senior Planner	1.5	\$ 92.74	\$	139.11
Circulate ND/MND (DPC)	Planning Admin	0.5	\$ 62.05	\$	31.03
Draft scope for RFP	Senior Planner	3.5	\$ 92.74	\$	324.59
Review RFP Submissions	Senior Planner	5	\$ 92.74	\$	463.70
RFP Contract Oversight	Senior Planner	8	\$ 92.74	\$	741.92
Review Plans	Building Inspector	1	\$ 183.33	\$	183.33
Review Plans	Engineering	4	\$ 128.97	\$	515.88
Review Plans	Fire	1	\$ 116.51	\$	116.51
Review Plans	Electric	1	\$ 113.43	\$	113.43
Review Plans	Public Works	3	\$ 67.54	\$	202.62
Review Plans	Police Department	1	\$ 128.26	\$	128.26
Tribal Consultation	Senior Planner	1	\$ 92.74	\$	92.74
Reviews all feedback from all departments	Senior Planner	2	\$ 92.74	\$	185.48
Drafts 2nd review comments	Senior Planner	0.5	\$ 92.74	\$	46.37
Receives and Routes 2nd RE Submission	Planning Admin	0.5	\$ 62.05	\$	31.03
Reviews 2nd resubmission for completeness	Senior Planner	1	\$ 92.74	\$	92.74
Review Plans	Engineering	2	\$ 128.97	\$	257.94
Review Plans	Fire	0.5	\$ 116.51	\$	58.26
Review Plans	Electric	0.5	\$ 113.43	\$	56.72
Review Plans	Public Works	2	\$ 183.33	\$	366.66
Onsight inspection	Police Department	2	\$ 128.26	\$	256.52
Makes Findings	Senior Planner	3	\$ 92.74	\$	278.22
Drafts Conditions	Senior Planner	3.5	\$ 92.74	\$	324.59
Drafts Staff Report	Senior Planner	6	\$ 92.74	\$	556.44
Schedules Planning Commission Date/Informs applicant	Senior Planner	1	\$ 92.74	\$	92.74
<b>PRE-PLANNING COMMISSION</b>					\$ -
Drafts Neighbor Notices and Postings	Senior Planner	1.5	\$ 92.74	\$	139.11
Sends draft report to attorney	Senior Planner	1	\$ 92.74	\$	92.74
Revises report per attorney feedback	Senior Planner	0.5	\$ 92.74	\$	46.37

CANNABIS CONDITIONAL USE PERMIT			FEE/COST		ESTIMATE
	STAFF	HOURS	\$	\$	
Mail out notices and post on the project parcel	Planning Admin	3	\$ 62.05	\$ 186.15	
Request Newspaper Notification	Senior Planner	0.5	\$ 92.74	\$ 46.37	
Process Newspaper Notification	Planning Admin	0.5	\$ 62.05	\$ 31.03	
Complete Powerpoint	Senior Planner	2.5	\$ 92.74	\$ 231.85	
Planning Commission Meetings (one-on-one)	Senior Planner	5.5	\$ 92.74	\$ 510.07	
Revise Conditions	Senior Planner	1	\$ 92.74	\$ 92.74	
<b>PLANNING COMMISSION HEARING</b>					
Staff presents project to Planning Commission	Senior Planner	2.5	\$ 92.74	\$ 231.85	
<b>POST PLANNING COMMISSION HEARING</b>					
Revise staff report to reflect Planning Commission review, comments and determination for the project	Senior Planner	1.5	\$ 92.74	\$ 139.11	
Schedule subsequent Planning Commission hearing or City Council Meeting				\$ -	
Revise Conditions	Senior Planner	1	\$ 92.74	\$ 92.74	
<b>CITY COUNCIL HEARING</b>					
Drafts Neighbor Notices and Postings	Planning Admin	1	\$ 62.05	\$ 62.05	
Revise rpt & send draft to attorney	CD DIR	2.5	\$ 127.82	\$ 319.55	
Revises report per attorney feedback	CD DIR	0.5	\$ 127.82	\$ 63.91	
Mail out notices and post on the project parcel	Planning Admin	2	\$ 62.05	\$ 124.10	
Request Newspaper Notification	CD DIR	0	\$ 127.82	\$ -	
Process Newspaper Notification	Planning Admin	0.5	\$ 62.05	\$ 31.03	
Complete Powerpoint	CD DIR	2	\$ 127.82	\$ 255.64	
Presents to City Council	CD DIR	1	\$ 127.82	\$ 127.82	
<b>POST CITY COUNCIL HEARING</b>					
Upload Resolution	City Clerk	1	\$ 59.89	\$ 59.89	
Drafts Approval Letter	Senior Planner	1	\$ 92.74	\$ 92.74	
File Closure Prep.	Senior Planner	1	\$ 92.74	\$ 92.74	
File Closure	Planning Admin	0.5	\$ 62.05	\$ 31.03	
Revise Conditions - Final	Senior Planner	1	\$ 92.74	\$ 92.74	
				\$ 9,972.85	

STAFF HOURLY RATE		RATE
SENIOR PLANNER		\$ 92.74
ASSOCIATE PLANNER		\$ 84.34
CITY ATTORNEY		\$ 200.00
CITY CLERK		\$ 59.98
PLANNING ADMINISTRATOR		\$ 62.05



CANNABIS CONDITIONAL USE PERMIT

	STAFF	HOURS	FEE/COST \$	ESTIMATE
CODE ENFORCEMENT OFFICER	\$	67.54		
CODE ENFORCEMENT DIRECTOR				
COMMUNITY DEVELOPMENT DIRECTOR	\$	127.82		
ECONOMIC DIRECTOR	\$	189.58		
ENGINEER/ PUBLIC WORKS DIRECTOR	\$	128.97		
ENGINEERING ADMINISTRATOR	\$	88.08		
SPECIALTY CONSULTANTS (EIR)				
FIRE MARSHAL	\$	116.51		
SR. BUILDING INSPECTOR	\$	183.33		
BUILDING INSPECTOR/PLAN CHECKER	\$	150.00		
FINANCE MANAGER	\$	75.42		
ELECTRIC (PLANNER)	\$	113.43		
POLICE CAPTAIN	\$	128.26		
POLICE SEARGANT	\$	87.73		
CITY MANAGER	\$	154.65		



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**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Doug Schulze, City Manager

**PREPARED BY:** Tom Miller, Electric Utility Director

**MEETING DATE:** November 13, 2018

**SUBJECT:** Resolution 2018-146, Approving a Contract Services Agreement with Vision Security Systems to Provide New Equipment, Installations, Repairs and Maintenance of Existing Equipment.

---

**RECOMMENDED ACTION:**

Staff recommends Council approve the Contract Services Agreement with Vision Security Systems, of Moreno Valley, to \$75,000 for services, included but not limited to, complete routine system expansion, maintenance, and operations of security locks, key pads, and cameras used throughout city facilities.

**BACKGROUND:**

Early this fiscal year, the electric department added several security locks, key pads, and a camera to the Corporate Yard facilities in order to accommodate a broader use of the gym facilities. This consumed a portion of the original vendor agreement of \$15,000 and additional expenses which brought the total vendor expense to \$27,162 generating the requirement that staff seek Council approval for a Services Agreement. The cameras and key lock hardware need replacing at the Sunset Substation due to normal wear and tear (originally installed in 2007). These maintenance tasks exceed the original purchase order agreement. Examples of these expenses are attached as Attachment 2 & 3.

**FISCAL IMPACT:**

Miscellaneous routine operations and maintenance items expensed in the electric operating or capital improvement budgets.

**OPTIONS:**

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

**ATTACHMENTS:**

1. Resolution 2018-146
2. Card Access Quote at Sunset Substation
3. Replacement Cameras for Sunset Substation
4. Draft Contract Services Agreement

Approved by:



Doug Schulze, CMA-CM  
City Manager



# **ATTACHMENT 1**

## **Resolution 2018-146**

## RESOLUTION 2018-146

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A CONTRACT SERVICES AGREEMENT WITH VISION SECURITY SYSTEMS TO PROVIDE NEW EQUIPMENT, INSTALLATIONS, REPAIRS AND MAINTENANCE ON EXISTING EQUIPMENT.**

**WHEREAS**, the City of Banning has issued a purchase order for Vision Security Systems to provide repairs and maintenance to the City's security system in the amount of \$15,000; and

**WHEREAS**, due to the confidential nature of our security systems, Vision Security Systems is a sole source for our requirements; and

**WHEREAS**, the Electric Utility Department has encountered unusual activity requiring the purchase of equipment and repairs and maintenance; and

**WHEREAS**, the original agreement for \$15,000 and subsequent purchases by the Electric Utility Department have created a total vendor expense of \$27,162 generating the need to increase the purchase order with Council approval; and

**WHEREAS**, the Electric Utility Department has projects on the horizon that will require the expertise and products provided by Vision Security Systems and is requesting additional funds of \$75,000 be added to the existing purchase order.

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

**SECTION 1.** The Banning City Council adopts Resolution 2018-146, Approving a Contract Service Agreement with Vision Security Systems to Provide New Equipment, Installations, Repairs and Maintenance of Existing Equipment..

**SECTION 2.** Deputy Finance Director or her designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Vision Security Systems Contract Services Agreement.

**SECTION 3.** The City Manager is authorized to sign the Vision Security Systems Contract Services Agreement in the amount of \$75,000 on behalf of the City of Banning.

**PASSED, APPROVED AND ADOPTED** this 13th day of November, 2018.

---

George Moyer, Mayor  
City of Banning

**ATTEST:**

---

Laurie Sampson, Acting Deputy City Clerk  
City of Banning

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

---

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



**CERTIFICATION:**

I, Laurie Sampson, Acting Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-146, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 13<sup>th</sup> day of November, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Laurie Sampson, Acting Deputy City Clerk  
City of Banning, California

# **ATTACHMENT 2**

## **Card Access Quote at Sunset Substation**



CITY OF BANNING -  
FINANCE DEPARTMENT  
P.O. BOX 998  
BANNING, CA 92220

Date 11/7/2018

Estimate # 2648

## Estimate

Description	Qty	Cost	Total
CARD ACCESS FOR SUBSTATION			
NetAXS 4 Dr. Access Control Panel, Part #ADI-NX4S1	1	2,327.39	2,327.39T
Card Reader 5355AGK00	2	310.85	621.70T
Additional Labor	5	98.00	490.00
Sales Tax		7.75%	228.55

**\$3,667.64**



# **ATTACHMENT 3**

## **Replacement Cameras for Sunset Substation**

# VISION SECURITY SYSTEMS

CITY OF BANNING - FINANCE  
DEPARTMENT  
P.O. BOX 998  
BANNING, CA 92220

Date 11/1/2018  
Estimate # 2646

## Estimate

Description	Qty	Cost	Total
CAMERAS FOR SUBSTATION			
DIGITAL WATCHDOG MEGApix Vandal Dome Camera, 5 Megapixel 1/1.8 CMOS Sensor (2592x1944 @ 30fps), 3.6-10mm Autofocus Varifocal P-Iris Lens, 100ft Smart IR, D-WDR, 3D-DNR, True D&N, Dual Codecs (H.264, MJPEG) with Simultaneous Streaming, 2.7X Optical Zoom, PoE + DC12V, OnVIF Compliant,, IP66, CleanView, 5 Year Warranty. DWC-MV85DiA (Spectrum License Included)	8	490.77	3,926.16T
DIGITAL WATCHDOG INDIVIDUAL DW SPECTRUM IPVMS LICENSE - NO ANNUAL RENEWAL, NO UPGRADE REQUIRED DW-SPECTRUMLSC001	8	0.00	0.00T
DIGITAL WATCHDOG Wall Mount for Flat Vandal Dome DWC-VFZWM	3	40.60	121.80T
DIGITAL WATCHDOG POLE MOUNT BRACKET FOR WALL MOUNT DWC-PMB-WL	2	30.29	60.58T
DIGITAL WATCHDOG CORNER MOUNT BRACKET FOR SELECT DOME CAMERAS DWC-V1CNM	1	39.78	39.78T
Additional Labor	4	98.00	392.00
Sales Tax		7.75%	321.49

**Total \$4,861.81**

Signature authorizes VSS to install and/or monitor the above equipment at the prices listed.

Signature \_\_\_\_\_ Date \_\_\_\_\_

# **ATTACHMENT 3**

## **Draft Contract Services Agreement**



# **AGREEMENT FOR CONTRACT SERVICES**

**By and Between**

**THE CITY OF BANNING,  
A MUNICIPAL CORPORATION**

**and**

**Vision Security Systems  
a California corporation**

**AGREEMENT FOR CONTRACT SERVICES  
BETWEEN  
THE CITY OF BANNING, CALIFORNIA  
AND  
VISION SECURITY SYSTEMS**

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 14th day of November, 2018 by and between the **CITY OF BANNING, a municipal corporation** ("City") and **VISION SECURITY SYSTEMS, a California corporation** and licensed contractor (California License Number 783394) ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

**RECITALS**

A. Contractor, 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.

B. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

C. The Parties desire to formalize the selection of Contractor for performance of those Services defined and described particularly in Section 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

**OPERATIVE PROVISIONS**

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1. SERVICES OF CONTRACTOR**

**1.1 Scope of Services.**

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those Services specified in the "Scope of Services" attached hereto as Exhibit "A" and "A-1" and incorporated herein by this reference, which Services may be referred to herein as the "Services" or "Work" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Work and Services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Work and Services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes

of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor's Proposal.

The Scope of Services shall include the Contractor's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all Services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the Services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the Services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of Services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the Work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof, to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Work by City, except such losses or damages as may be caused by City's own negligence.



#### 1.7 Warranty.

Contractor warrants all under the Agreement (which for purposes of this Section shall be deemed to include unauthorized Work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees to warranty labor for ninety (90) days. Parts, materials, and workmanship for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Work or non-conformance of the Work to the Agreement, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at his sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any Work damaged by such Work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand. This provision may be waived in Exhibit "B" if the Services hereunder do not include construction of any improvements or the supplying of equipment or materials.

#### 1.8 Prevailing Wages.

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000.00 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free



and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.9 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible for the Services of the other.

1.10 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra Work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said Work. No such extra Work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to five percent (5%) of the Contract Sum or \$25,000.00, 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 Contractor that the provisions of this Section shall not apply to Services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

1.11 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

**ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.**

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and "C-1", and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed, Seventy Five Thousand Dollars (\$75,000) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.10.

## 2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

## 2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses if an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Scope of Services shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the Work with City is a critical component of the Services. If Contractor is required to attend meetings in addition to the project meetings, to facilitate coordination of the Services and/or Work, Contractor shall not be entitled to any additional compensation for attending said meetings.

## 2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all Work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor charges. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Contractor to determine whether the Work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for Work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

## 2.5 Waiver.

Payment to Contractor for Work performed pursuant to this Agreement shall not be deemed to waive any defects in Work performed by Contractor.

# ARTICLE 3. PERFORMANCE SCHEDULE

## 3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.



### 3.2 Schedule of Performance.

Contractor shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference.

### 3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

### 3.4 Inspection and Final Acceptance.

City may inspect and accept or reject any of Contractor's Work under this Agreement, either during performance or when completed. City shall reject or finally accept Contractor's Work within forty-five (45) days after it is submitted to City. City shall accept Work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any Work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Article 1 and 5, pertaining to warranty, and indemnification and insurance, respectively.

### 3.5 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall commence upon execution by both Parties and shall expire on June 30, 2019, or extended in writing in advance by both Parties. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

## ARTICLE 4. COORDINATION OF WORK

### 4.1 Representatives and Personnel of Contractor.

The following principal of Contractor (Principal) is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Work specified herein and make all decisions in connection therewith.

Representative Name, Title

### 4.2 Representative Name, Title.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal was a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principal. For purposes of this Agreement, the foregoing Principal may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance.

### 4.3 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

### 4.4 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.



#### 4.5 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the Services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

#### 4.6 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of the 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 Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

### **ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS**

#### 5.1 Insurance Coverages.

Throughout the life of this Agreement, Contractor shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) that meet the standards specified in Section 5.5. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

\$2,000,000 per occurrence for bodily injury and property damage



\$1,000,000 per occurrence for personal and advertising injury

\$4,000,000 aggregate for products and completed operations

\$4,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 Any Auto) with limits of liability of not less than \$1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

(v) PROFESSIONAL LIABILITY Professional Liability (Errors and Omissions) insurance appropriate to Contractor's profession, with limits of liability of \$2,000,000 per claim/occurrence and \$2,000,000 policy aggregate.

In the event Contractor purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

If this Agreement continues for more than three (3) years duration, or in the event the City Manager or his/her designee determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager, or his/her designee.

Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Contractor shall also be responsible for payment of any self-insured retentions.

Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either: (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its Council members, officers, officials, employees and agents; or (ii) Contractor shall provide a financial guarantee, satisfactory to the City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the City be responsible for the payment of any deductibles or self-insured retentions.



## 5.2 General Requirements.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Contractor shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Contractor shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing and completed operations) and Automobile Liability shall name City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Contractor's insurance shall be primary and no contribution shall be required of City. The coverage shall contain no special limitations on the scope of protection afforded to the City and its officers, officials, employees, agents and volunteers. The Workers' Compensation insurance policy shall contain a waiver of subrogation as to City and its officers, officials, employees, agents and volunteers. Should Contractor maintain insurance with broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

If the Professional Liability (Errors and Omissions) insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by Contractor.
2. Insurance must be maintained and evidence of insurance must be provided for at least three years after any expiration or termination of the Agreement or, in the alternative, the policy shall be endorsed to provide not less than a three-year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by Contractor, Contractor must purchase extended reporting coverage for a minimum of three years following the expiration or termination of the Agreement.
4. A copy of the claims reporting requirements must be submitted to City for review.
5. These requirements shall survive expiration or termination of the Agreement.

Contractor shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee prior to City's execution of the Agreement and before work commences.

If at any time during the life of this Agreement or any extension, Contractor or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that become due to Contractor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Contractor of its responsibilities under this Agreement.

Upon request of City, Contractor shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City and its officers, officials, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its principals, officers, employees, agents, persons under the supervision of Contractor, vendors, suppliers, invitees, subcontractors, or anyone employed directly or indirectly by any of them.

If Contractor should subcontract all or any portion of the Services to be performed under this Agreement, Contractor shall require each subcontractor to provide insurance protection in favor of City and its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Contractor and City prior to the commencement of any work by the subcontractor.

### 5.3 Indemnification, Hold Harmless, and Duty to Defend.

#### A. Indemnities.

1) To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, including



the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Contractor's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Contractor's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

#### 5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Contractor shall deliver to City performance bond in the sum of the amount of the Contract Sum, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

#### 5.5 Sufficiency of Insurer 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 three (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 Contractor agrees that the minimum limits of the insurance policies and the performance bond required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within ten (10) days of receipt of notice from the Risk Manager.

### **ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION**

#### 6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Books and Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Books and Records 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 Books and Records. Such Books and Records shall be maintained for a period of 3 years following completion of the Services hereunder, and the City shall have access to such Books and Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Books and Records may be given to City, and access shall be provided by Contractor's successor in interest.



## 6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of Work and Services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Work or Services contemplated herein or, if Contractor is providing Design Services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design Services, the estimated increased or decreased cost estimate for the project being designed.

## 6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Documents and Materials") prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Documents and Materials hereunder. Any use, reuse or assignment of such completed Documents and Materials for other projects and/or use of uncompleted Documents and Materials without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, revise or assignment. Contractor may retain copies of such Documents and Materials for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any Documents and Materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

## 6.4 Confidentiality and Release of Information.

(a) All information gained or Work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or Work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.



(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or Work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

## **ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION**

### **7.1 California Law.**

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

### **7.2 Disputes: Default.**

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any Work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

### **7.3 Retention of Funds.**

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or

damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

#### 7.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Work or Services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

#### 7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

#### 7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

#### 7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of 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 Contractor any accrued liquidated damages.



#### 7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the Work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 7.2.

#### 7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the Work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

#### 7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.



## **ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION**

### **8.1 Non-liability of City Officers and Employees.**

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

### **8.2 Conflict of Interest.**

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of Services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the 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 Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

### **8.3 Covenant Against Discrimination.**

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

### **8.4 Unauthorized Aliens.**

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of Work and/or Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.



## ARTICLE 9. MISCELLANEOUS PROVISIONS

### 9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

### 9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

### 9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

### 9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

### 9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

**[SIGNATURES ON FOLLOWING PAGE]**



**IN WITNESS WHEREOF** the Parties hereto have executed this contract the day and year first hereinabove written.

CITY OF BANNING

CONTRACTOR

\_\_\_\_\_  
Douglas Schulze, City Manager

By:

\_\_\_\_\_  
NAME:  
TITLE:

By:

\_\_\_\_\_  
NAME:  
TITLE:

ATTEST:

\_\_\_\_\_  
Laurie Sampson,  
Acting Deputy City Clerk

\_\_\_\_\_  
Tax ID No.

CONTRACTOR'S ADDRESS:

APPROVED AS TO FORM:  
Richards, Watson & Gershon

\_\_\_\_\_  
Kevin G. Ennis, Esq., City Attorney

**Two signatures are required if a corporation**

**NOTE: CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.**

**CALIFORNIA - ALL PURPOSE ACKNOWLEDGMENT**

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 \_\_\_\_\_, 20\_\_ 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.

<b>CAPACITY CLAIMED BY SIGNER</b>		<b>DESCRIPTION OF ATTACHED DOCUMENT</b>
<input type="checkbox"/>	INDIVIDUAL	
<input type="checkbox"/>	CORPORATE OFFICER	
	TITLE(S) _____	TITLE OR TYPE OF DOCUMENT _____
<input type="checkbox"/>	PARTNER(S) <input type="checkbox"/> LIMITED	
	<input type="checkbox"/> GENERAL	
<input type="checkbox"/>	ATTORNEY-IN-FACT	
<input type="checkbox"/>	TRUSTEE(S)	NUMBER OF PAGES _____
<input type="checkbox"/>	GUARDIAN/CONSERVATOR	
<input type="checkbox"/>	OTHER _____	
<b>SIGNER IS REPRESENTING:</b>		DATE OF DOCUMENT _____
(NAME OF PERSON(S) OR ENTITY(IES))		
_____ _____		SIGNER(S) OTHER THAN NAMED ABOVE _____

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**I. Contractor will perform the following Services:**

Services included, but not limited to, complete routine system expansion, maintenance, and operations of security locks, key pads, and cameras used throughout city facilities.

DRAFT



**EXHIBIT "B"**  
**SPECIAL REQUIREMENTS**  
**(Superseding Contract Boilerplate)**

DRAFT

**EXHIBIT "C"**  
**SCHEDULE OF COMPENSATION**

- I. Contractor shall perform the following tasks in accordance with Exhibit A-1.**
- II. To the extent a project proposal consists of multiple subtasks, within the budgeted amounts for each subtask, and with the approval of the Contract Officer, funds may be shifted from one subtask sub-budget to another so long as the project budget is not exceeded per Section 2.1, unless additional services are approved per Section 2.3.**
- III. For each project assignment the City will compensate Contractor 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.**
- VI. The total compensation for Services shall not exceed \$75,000 as provided in Section 2.1 of this Agreement.**

**EXHIBIT "D"**  
**SCHEDULE OF PERFORMANCE**

- I. **The Contract Officer may approve extensions for performance of the Services in accordance with Section 3.5.**
- II. **All work product is subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.**