

In accordance with City Council Resolution 1995-21, the minutes of meetings of the City Council and the Boards, Commissions, and Committees of the City shall be prepared as Action Minutes.

MINUTES
CITY COUNCIL

09/10/2019
REGULAR MEETING

COUNCIL MEMBERS PRESENT: Councilmember Happe
Council Member Peterson
Councilmember Wallace
Mayor Pro Tem Andrade
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Douglas Schulze, City Manager
 Kevin G. Ennis, City Attorney
 Daryl Betancur, Deputy City Clerk
 Matthew Hamner, Police Chief
 Scott Foster, Interim Parks & Recreation Director
 Tom Miller, Electric Utility Director
 Art Vela, Public Works Director/City Engineer
 Suzanne Cook, Interim Administrative Services Director
 Adam Rush, Community Development Director
 Ted Shove, Economic Development Manager
 Laurie Sampson, Executive Assistant
 Leila Lopez, Office Specialist

I. CALL TO ORDER

A regular meeting of the Banning City Council was called to order by Mayor Welch on September 10, at 5:00 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

Elder Ron Duncan, Church of Jesus Christ of Latter-Day Saints, offered the invocation.

Mayor Art Welch led the audience in the Pledge of Allegiance.

Mayor Welch submitted amended minutes from the August 27, 2019 meeting and called for a vote to approve the minutes with the changes.

A motion was made by Councilmember Wallace, seconded by Councilmember Happe to approve the amended minutes. Electronic roll call vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Approved Amended Minutes

II. APPROVAL OF AGENDA

A motion was made by Councilmember Wallace, seconded by Councilmember Happe to approve the agenda as amended. Electronic roll call vote was taken as follows:

AYES: Happe, Peterson Wallace, Andrade & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Approved Agenda

III. PRESENTATION

Proclamation Declaring the Month of September as Childhood Cancer Awareness Month in the City of Banning

IV. REPORT ON CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

City Designated Representatives: Douglas Schulze, City Manager and Kevin G. Ennis, City Attorney

Employee Organization: Banning Police Management Association (BPMA).

Direction given to City Manager, Doug Schulze, no final action taken.

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Potential initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9 (one case)

Direction given to City Attorney and staff.

3. **CONFERENCE WITH LABOR NEGOTIATORS**
Pursuant to Government Code Section 54957.6
City designated representative: Douglas Schulze, City Manager
Unrepresented employee: Candidate for Parks & Recreation Director position.
Direction given to City Manager, Doug Schulze.
4. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property Description: Real Property located in the vicinity of Ramsey Street and Highland Home Road (APNs 531-100-003, -043, 537-261-043, 537-100-027, -028, -029, -032, -044)
City Negotiator: Ted Shove, Economic Development Manager
Negotiating Parties: Khan Properties and Holdings, LLC
Under Negotiation: Price and Terms.
Direction given to Economic Development Manager, Ted Shove
5. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9. One potential case.
Direction given to City Attorney and staff.
6. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: *Cherry Valley Pass Acres and Neighbors v. City of Banning, et al.* Case No. RIC 460950; and *Highland Springs Conference and Training v. City of Banning, et al.*, Case No. RIC 460950.
Update provided.

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

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

Inge Schuler, Banning resident, requested a clarification of Councilmember Happe's use of the word "hyperbole".

Ron Roy, resident of Beaumont, would like the Council to make sure there are public meetings to discuss the I-10 Bypass project.

Merle Nazareth, Banning resident, to speak in favor of offering showers to the homeless.

William Cunningham, spoke to the community looking for help in solving the murder of his son, Bradley. Would like to offer a reward for information leading to the conviction of the murderer. Councilmember Happe requested Mr. Cunningham contact him directly to discuss a possible fundraiser.

An unknown person spoke about the conduct of the City Council and lack of decorum and enforcement of decorum rules.

Ed Miller, Banning resident, had comments about the prior meeting discussion of the annual budget. He is concerned about the use of reserves to balance the budget. Has three questions: 1) Is it not the City's policy to not go bankrupt; 2) What is this Council and the City Manager planning to do to increase revenue; 3) Why is Beaumont so successful and Banning so stagnant?

Jerry Westholder, Banning resident, The City needs to make Sun Lakes Blvd extension a priority to alleviate the traffic on Highland Springs.

Ellen Carr, Banning resident, spoke for Tender Loving Critters and Animal Action League.

Diane Box, Banning resident, disappointed in the vote to approve the apartments on the east side. Ms. Box served a petition to recall Councilmember Happe to Mr. Happe and the Deputy City Clerk.

Frank Burgess, Banning resident, concerned about the \$5.5 million scheduled to be spent to widen Highland Springs Road north from Wilson Street to Oak Valley Parkway. Questioning some of the funding that appears to be for Right-of-Way purchase.

Gabriel Westholder, Banning resident, was critical of the City Council.

Diego Rose, Banning resident, would like the council to recognize the perspective of the constituents may be different from the council.

Bill Hobbs, Banning resident, was impressed with the Stagecoach Rodeo and all the events he attended last week. Would like to see the rest of the city and council work together.

David Ellis, Banning resident, would like to thank the City for the stop sign and crosswalk installed on Wilson and Florida. He is intrigued by the bike lanes project. He appreciates the calmness of the council. Would appreciate it if the Council would listen more. Is concerned the City is dying along with the trees.

Mary Hamlin, Banning resident, Pass Job Connection will be offering job search assistance at the Banning Public Library on the first Wednesday of the month from 5:00 – 6:00 pm. Will be offering job search strategy assistance, resume building and review, and interviewing techniques.

CORRESPONDENCE

Correspondence received by Morgan Keith of Building Industry Association (BIA) (*Exhibit A*) and George Moyer (*Exhibit B*).

VI. CONSENT ITEMS

1. Approval of Special Meeting – 8/27/2019 Planning Commission Interviews
2. Approval of Special Meeting – 8/27/2019 (Closed Session)
3. Approval of Regular Meeting – 8/27/2019 Minutes
4. Receive and File Contracts Approved Under the City Manager's Signature Authority for the Month of August 2019
5. Findings of General Plan Conformity for Real Property Acquisition of Approximately 1.21 acres of Land
6. Adopt Resolution 2019-116, Establishing a Pre-Approved Professional Engineering Vendor List for Remainder of Fiscal Year 2020 through Fiscal Year 2022

Mayor Welch asked if the Council wished to pull any items from the consent calendar. Seeing none, he entertained a motion to approve the consent calendar.

Public Comment

Inge Schuler spoke against Resolution 1995-21, which states the minutes for all meetings would be action minutes.

A motion was made by Councilmember Happe, seconded by Mayor Pro Tem Andrade to approve the consent calendar as presented. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

Action: Approved Consent Items 1 through 6.

VII. PUBLIC HEARING(S)

1. Adopt Resolution 2019-113, Approving the Comprehensive User Fee Study Report, dated January 2, 2019 and Adopting an Updated Master User Fee Schedule for the Following City Departments and Fee Groups: Finance and Administration; Animal Control; Community Services; Airport; Building; Planning; Utility Billing; Electric Utility; Police; Fire; and Engineering, Making a Finding for Exemption under CEQA, and Introducing Ordinance 1553, Proposing Amendments to Chapter 3.36 "Fee and Service

Charge Revenue/Cost Comparison" of the Banning Municipal Code (BMC) ("Code Amendment"), and Making Findings Pursuant to CEQA (***First reading and introduction.***

Adam Rush, Community Development Director presented the staff report and answered questions from the council.

Public Comment

Damien Fussel, Deputy Director of Government Affairs for the BIA, was concerned about the fees for Single Family Residences in particular.

Diego Rose had questions about what the definition of the "public good" that would trigger subsidizing some fees and who would qualify for those subsidies. He is concerned that if the fees go up too high it will discourage developers from building in Banning.

Kevin Ennis, City Attorney, provided clarification of what type of fees would be subsidized and all fees collected by the City do not stay in the City.

David Ellis indicated the City should not be comparing its fees to surrounding communities, as they all have something different to offer. Banning should be fair to all developers and not offer special favors.

Frank Burgess stated this Public Hearing has been going on for too long. Thanked Mr. Peterson for pointing out the deficiencies in the report.

A motion was made by Councilmember Peterson, seconded by Councilmember Wallace to send this item to the Budget & Finance Committee. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

Action: Return to the Budget & Finance Committee for further discussion.

The Mayor called for a 10-minute break at 7:01 P.M. and the Regular Meeting of the Banning City Council reconvened at 7:14 P.M.

2. Waive first reading and introduce Ordinance 1552, An Ordinance of the City Council of the City of Banning, California, Approving Zoning Text Amendment No. 19-97503 Amending Section 17.108.020 "Permitted Uses" of Chapter 17.108 "Temporary Use Permits", Table 17.12.020 of Section 17.12.020 "Permitted, Conditional and Prohibited Uses" of Chapter 17.12

“Commercial and Industrial Districts” and Adding a New Section 17.24.180, “Commercial Cargo/Storage Containers” Establishing Regulations for Commercial Cargo/Storage Containers, of Title 17 “Zoning” of the Banning Municipal Code and Making Findings Pursuant to CEQA. (*First reading and introduction*)

Adam Rush, Community Development Director presented the staff report and answered questions from the council.

Public Comment

Diego Rose suggested this item is something the planning commission should look into.

John Hagen, Banning resident, spoke against the proposal to regulate storage containers.

David Ellis commented on the fact that these containers are being used as houses and this should be addressed as well.

Frank Burgess spoke in opposition to the use of storage containers.

A motion was made by Councilmember Peterson, seconded by Mayor Pro Tem Andrade to send Ordinance 1552 to the Planning Commission for further consideration. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

Action: Ordinance 1552 returned to the Planning Commission for further consideration.

3. Ordinance 1554 - An Ordinance of the City Council of the City of Banning, California Considering Proposed Amendments to Chapter 5.24 “Commercial Solicitors” and Chapter 17.108 “Temporary Use Permits”, Section 17.108.020 “Permitted Uses”, and Section 17.108.070 “Requirements and Prohibitions for Mobile Vending” Amending the Banning Municipal Code (BMC) (“Code Amendment”) to be Consistent with SB 946 Related to Local Regulation of Street Vendors

Adam Rush, Community Development Director requested this item be continued to off calendar for further study and determination

Public Comment- None

A motion was made by Mayor Welch, seconded by Councilmember Happe to continue the Ordinance to a future, undetermined date without discussion. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

Action: Ordinance 1554 continued to a future date, undetermined.

4. Adopt Resolution 2019-112, Approving the Development Impact Fee Update Study Dated August 7, 2019, Approving the Update of [the] Traffic Fee Component of the Development Impact Fee Program Dated May 2019, Adopting New and Amended Development Impact Fees, Making a Finding for Exemption under CEQA, and Repealing Resolution 2006-75 in its Entirety; and Waiving further reading and introducing Ordinance 1551, Updating the City's Development Impact Fee Program, Amending the City of Banning Municipal Code, and Making Findings Pursuant to CEQA. (***First reading and introduction***).

Art Vela, Public Works Director, presented the staff report, introduced Carlos Villareal and Andrea McCarthy of Willdan. He then answered questions from the council. *Presentation attached as Exhibit C.*

Public Comment

Diego Rose spoke in favor of the prosed Development Impact Fee increase.

Mayor Art Welch directed the Deputy City Clerk to read the Ordinance: *Ordinance 1551 is an Ordinance of the City of Banning, California, Updating the City's Development Impact Fee Program, Amending the Banning Municipal Code, Making Findings Pursuant to CEQA, and Repealing Provisions of Ordinance Nos. 1320 and 1321 Establishing or Modifying Certain Development Impact Fees.*

A motion was made by Councilmember Happe, seconded by Mayor Welch to waive further reading of Ordinance 1551. Electronic vote was taken as follows:

AYES:	Happe, Peterson Wallace, & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

Action: Waive further reading of Ordinance 1551

A motion was made by Councilmember Happe, seconded by Mayor Welch to pass the first reading of Ordinance 1551. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Ordinance 1551 pass its first reading

A motion was made by Councilmember Happe, seconded by Councilmember Wallace to approve Resolution 2019-112. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Approved per Resolution 2019-112

5. Proposal by Councilmember Wallace to Censure of Councilmember Peterson.

Kevin Ennis, City Attorney, provided the staff report and answered questions from the council.

Councilmember Colleen Wallace stated her reasons for filing a petition to censure Councilmember Peterson.

Councilmember Peterson responded to the censure charges.

Public Comment

Frank Burgess spoke against censure of Councilmember Peterson.

An unknown person spoke in favor of censure of Councilmember Peterson.

Jerry Westholder, resident of Banning, spoke against censure of Councilmember Peterson.

Ellen Carr, resident of Banning, spoke against censure of Councilmember Peterson.

Diego Rose spoke against censure of Councilmember Peterson.

Cynthia Barrington, resident of Banning, spoke against censure of Councilmember Peterson.

John Hagen spoke against censure of Councilmember Peterson.

Art Nordquist, resident of Banning, encouraged the council to work together.

Dora Nordquist, resident of Banning, spoke against censure of Councilmember Peterson.

Alex Geronimo, resident of Banning, spoke against censure of Councilmember Peterson.

Dorothy Famalleti McLean, resident of Banning, questioned the City Attorney about the process of the censure. Spoke against censure of Councilmember Peterson.

Carlos Trejo spoke against censure of Councilmember Peterson.

Nick Parra, resident of Banning, spoke against censure of Councilmember Peterson and negative social media.

David Ellis spoke against censure of Councilmember Peterson and in favor of social media.

Nick Parra responded to David Ellis regarding use of social media.

David Ellis responded social media is not going away.

Mary Hamlin spoke in favor of censure of Councilmember Peterson.

The Mayor called for an eight-minute break at 9:55 P.M. and the Regular Meeting of the Banning City Council reconvened at 10:03 P.M.

Ron Duncan, resident of Banning, spoke against censure of Councilmember Peterson and Mayor Welch.

Daniele Savard, resident of Banning, spoke about leaving the City and its toxic environment. Implored everyone to end it and the negative messages.

Mayor Welch commented on the proceedings.

Mayor Pro Tem commented on the proceedings.

Councilmember Happe commented on the proceedings.

Mayor Welch called for a motion. There was none.

Action: None.

Mayor Welch called for a motion to extend the Council meeting for one hour.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Peterson for the extension of the council meeting for one hour. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

6. Proposal by Councilmember Peterson to Censure of Mayor Welch.

Councilmember Peterson requested the withdrawal of his proposal to censure Mayor Welch, therefore the item was closed. As Mayor Welch was a party to the motion, Mayor Pro Tem Andrade was appointed Chair for this item.

Public Comment

Diego Rose thanked the council for their previous actions and stated the council needs to be open to criticism.

Jerry Westholder apologized to Mayor Welch for questioning his military record and feels the council made the right decision.

Action: None

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Councilmember Happe: None

Mayor Pro Tem Andrade:

- Announced the State of the City
- She and Councilmember Happe met with Waste Management to discuss the new state requirements for green waste.
- October 12 is Community Clean Up Day at Dysart Park from 8:00 am to 1:00 pm. She advised there are volunteers willing to help pick up items to take to the site.

- The City depends on the community to advise what is going on. Asked that if you see something, say something.
- Take advantage of Auto Zone's oil collection.
- She and Councilmember Wallace met with the Downtown ad-hoc Committee to discuss future projects, repaving the downtown alleys, options for beautifying that area, and a community garden.
- Met with Mount San Jacinto College (MSJC) and discussed their role in the community. The college is waiving fees for first time, full time students.
- Thanked the Stagecoach Days Committee and Gabrielle Campbell.

Councilmember Wallace:

- Attended the Banning Unified School District 2x2 meeting.
- Community Action Partnership came to Banning and helped residents pay their utility bills.
- MSJC will be having a 9/11 Commemoration at 8:00 am.

Councilmember Peterson: None

Mayor Welch:

- Tuesday, September 17, Beaumont City Hall will be hosting a Job Fair 10:00 am – 2:00 pm.
- Pass Area Joint Chamber Mixer is scheduled for September 12, from 5:30 pm – 7:00 pm.

REPORT BY CITY ATTORNEY

None.

REPORT BY CITY MANAGER

- Introduced Jennifer Christensen, Administrative Services Director.
- Received notice of construction on SR243, pavement rehab project.
- Riverside County Film Commission, a crew will be filming on the Historic Gilman Ranch, a remake of *Tell Them Willie Boy is Here*. There will be a campfire scene. In case anyone calls regarding the smoke. They may also be interested in using the City's fire station on Wilson for a TV show.
- Reminder, there is a Homelessness Summit on Thursday, September 12th at Sunrise Church on West Wilson.

REPORT OF OFFICERS

1. Budget Adjustment and Update Job Description for Community Development – Associate Planner

Adam Rush provided the staff report and answered questions from the council.

Public Comment- None

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Wallace to approve the item was as presented. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

Action: Approved

Mayor Welch called for a motion to extend the Council meeting for one hour.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Wallace for the extension of the council meeting for one hour. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

2. Adopt Resolution 2019-115, Approving an Employment Agreement with Parks and Recreation Director Ralph Wright.

City Manager Douglas Schulze provided the staff report and answered questions from the council.

Public Comment- None

Mayor Welch read the terms of the employment agreement as required by state law. The correct salary is \$131,840.69.

A motion was made by Councilmember Wallace, seconded by Councilmember Happe to approve the item was as presented. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

Action: Adopted Resolution 2019-115

3. Authorize the City Manager to Submit Application for City of Banning Tree City USA Designation

Doug Schulze, City Manager, presented the staff report and answered questions from the council.

Public Comment- None

A motion was made by Councilmember Happe seconded by Mayor Welch to approve the item was as presented. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

Action: Approved

4. Adopt Resolution 2019-114, Authorizing the City Manager to Execute a Cooperative Agreement between the City of Banning, City of Beaumont and Riverside County Transportation Commission for the Preparation of the Highland Springs Interchange Project Study Report Highland Springs Interchange Agreement.

Art Vela, Director of Public Works/City Engineer provided the staff report and answered questions from the council.

Public Comment- None

A motion was made by Councilmember Wallace, seconded by Mayor Welch to approve the item was as presented. Electronic vote was taken as follows:

AYES:	Happe, Peterson, Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	None
ABSENT:	None

Action: Adopted Resolution 2019-114 and approved a Cooperative Agreement between Riverside County Transportation Commission, City of Banning, and City of Beaumont.

5. Discuss and Consider Approving Draft Language and Release of Request for Proposals ("RFP") for Commercial Redevelopment for City-Owned Real Property Consisting of +/-5.55 Acres, Downtown Banning

Ted Shove, Economic Development Manager, provided the staff report and answered questions from the council.

Councilmembers Happe and Peterson recused themselves as they own property or businesses within 500 feet of the property under discussion.

Public Comments - None

A motion was made by Councilmember Andrade, seconded by Councilmember Wallace to approve the item was as presented. Electronic vote was taken as follows:

AYES:	Wallace, Andrade & Welch
NOES:	None
ABSTAIN:	Happe and Peterson
ABSENT:	None

Action: Approved

IX. DISCUSSION ITEM

None

CITY COUNCIL – Next Meeting, September 24, 2019, 5:00 p.m.

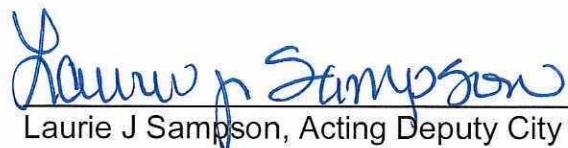
X. ITEMS FOR FUTURE AGENDAS

1. Website Redesign
2. Wildfire Mitigation Plans
3. 553 E. Ramsey Receivership

XI. ADJOURNMENT

By consensus, the meeting was adjourned at 11:37 p.m.

Minutes Prepared by:



Laurie J Sampson
Laurie J Sampson, Acting Deputy City Clerk

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

Exhibit A

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Morgan Keith

September 10, 2019

Introductory Comments

BIA's comments address only the services provided by the City of Banning's Building Department specifically related to Single-Family Residential (SFR) permit issuance, plan review and building inspections. However, these comments may apply to other fees recommended for Building Department services.

Willdan Financial Service (Willdan) does not provide the data necessary to determine the "reasonableness" of their current fee proposals relating to SFR plan check and building permits because they refused to release their backup calculations pursuant to a Public Records Request earlier this year. However, BIA can provide an alternative analysis by determining an estimate of the number of hours that staff might contribute to the fulfillment of their service obligation. In this analysis, we determined that under the current Willdan proposal the building plan check and building permit fee for a 1,500 sf SFR dwelling would cost the applicant approximately \$3,067 for about 25.9 staff hours based upon hourly rates¹ that Willdan posted for staff in the *Report*. BIA does not consider this result reasonable. The building permit for a 2,000 sf SFR would cost the applicant about \$3,285 and should pay for about 27.8 hours of staff time.

In their *Report* Willdan discussed the option of using an inflationary factor such as the Consumer Price Index (CPI) each year rather than fund annual user fee studies to determine reasonable costs. In earlier written comments², BIA recommended that the City not adopt Willdan's proposed fees for building plan check and inspection services for SFR, but rather adopt a position that directs Willdan or staff to adjust their recommendations to modify current Building Department fees considering the proposed CPI as discussed in the staff report from the earlier fees adopted by resolution.

The current Willdan *Report* dated January 2, 2019 that is included in the City Council Agenda is not the same Willdan *Report* provided by the City for their January 8, 2019 workshop because many of the user fees recommended for the Building Department services have increased substantially without any explanation. The fees proposed for a R-3 SFR 1,500 sf Type-V dwelling in January would cost the permittee approximately \$2,187 and obligate the service providers to about 12.7 hours.

The BIA recommends that the City Council consider the user fees for Building Department service fees as presented in the January 8 City Council workshop as the more reasonable alternative and more sensible.

¹ BIA assumes that the hourly rates posted represent the Fully Burdened Hourly Rate.

² *Comments about the City of Banning's Proposed SFR Building Permit Fees*

December 7, 2018, Updated January 14, 2019

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Willdan Financial Service's *City of Banning Comprehensive User Fee Study* for presentation and consideration by the City Council on September 10, 2019.

In early September 2019, the City proposed to introduce Willdan Financial Service's *City of Banning Comprehensive User Fee Study* for presentation and consideration by the City Council on September 10, 2019.

The City held a Master Fee Study Workshop on January 8, 2019. The report approved by the City Manager provided two attachments from Willdan Financial Service:

1. Comprehensive User Fee Study Report, January 2, 2019
2. Comprehensive User Fee Study Report, March 9, 2018

January 9, 2019

The January 2, 2019, *Report* provided the following fee schedule, which included recommended fees for 'Residential - New (single or multi-family – per dwelling unit). A building permit including plan check for a R-3 SFR 1,500 sf Type-V dwelling would cost the permittee about \$2,187 starting at the base of \$2,125.12 for the first 1,201 sf, plus \$31.02 for each 100 sf or fraction thereof . . . on stamped page 39.

For the 2,000 sf dwelling, the schedule recommended a fee of approximately \$2,342.26 or typical single-family residential dwelling (R-3 SFR) 2,000 sf Type-V. The Report provided the base fee of \$2,125.12 for a SRF starting at 1,201 sf, plus \$31.02 for each 100 sf or fraction thereof . . . on stamped page 39. The fee schedule did not provide a fee for 'Residential – Production Phase' units.

Exhibit A

Master Fee Study Workshop on January 8, 2019, page stamped #39

March 9, 2018

The Report dated March 9, 2018 proposal recommended that the City charge \$3,992.47 building permit fee for SFR of 1,500 sf. Willdan provided the base fee of \$3,940.28 for a SRF starting at 1,201 sf, plus \$52.19 for each 100 sf or fraction thereof on stamped page 94. The fee schedule did not provide a fee for 'Residential – Production Phase' units.

Exhibit B

Master Fee Study Workshop on March 9, 2018, page stamped #94

The January 2, 2019, Report recommended a decrease of \$1,650 from the March 8, 2018, Report in the building permit fee for the SFR with 2,000 sf, Type-V

September 10, 2019

The Attachment to Item No. 1 of VII. Public Hearings, proposing the adoption of Resolution No. 2019-113:

3. Comprehensive User Fee Study, dated January 2, 2019 (Willdan)

https://banningca.gov/DocumentCenter/View/6403/Attachment-3_Banning-UFReport_20190826

On sequence page 35 of 62 in Attachment -3: The Report also dated January 2, 2019, provides the base fee of \$2,980 for a 'Single or Multi' SRF starting at 1,201 sf, plus \$43.50 for each 100 sf or fraction thereof Subsequently, the fee for the R-3 SFR 2,000 sf Type-V adds to \$3,284.50 for a single SFR or custom home. This revision

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

proposes an increase of \$942.24 for a single SFR or custom home from the January 8 Report.

The building permit fee including plan check fees for a SFR 1,500 custom home would cost the permittee about \$3,067 and obligate staff time of about 25.9 hours, which requires over twice as many hours as the fee for January 8, 2019 of 12.7 hours.

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit C

Comprehensive User Fee Study, September 10, 2019, page 36

CITY OF BANNING
SCHEDULE OF FEES
BUILDING DEPARTMENT FEES

UBC Class	UBC Occupancy Type	Project Size Threshold	Construction Types:	
			II N, III N, IV, V N	
Residential (Single or Multi - Per Dwelling Unit)		1	\$2,512	\$24.47
		801	\$2,708	\$87.97
		1,201	\$2,880	\$43.50
		2,001	\$3,328	\$44.59
		3,001	\$3,774	\$63.08
		4,001	\$4,404	\$41.33
		6,001	\$5,231	\$29.11
		10,001	\$6,156	\$31.10
Residential - Production Phase		1	\$2,212	\$28.00
		801	\$2,438	\$7.61
		1,201	\$2,468	\$80.36
		2,001	\$2,940	\$27.19
		3,001	\$3,221	\$53.72
		4,001	\$3,750	\$30.26
		6,001	\$4,644	\$19.25
		10,001	\$5,314	\$1.27
Residential - Addition (Single or Multi Family)		1	\$1,740	\$43.50
		301	\$1,871	\$184.88
		501	\$2,240	\$101.50
		801	\$2,545	\$83.70
		1,001	\$2,991	\$91.36
		2,001	\$3,447	\$122.82
Residential - Remodel (Single or Multi Family)		1	\$1,327	\$16.13
		301	\$1,381	\$119.63
		501	\$1,820	\$39.88
		801	\$1,740	\$38.84
		1,501	\$2,012	\$21.67
		2,001	\$2,153	\$31.06
Commercial		1,001	\$2,825	\$26.92
		5,001	\$4,802	\$30.89
		10,001	\$5,546	\$26.89
		20,001	\$7,845	\$9.10
		50,001	\$10,375	\$6.26
		100,001	\$13,907	\$6.37
Industrial		1,001	\$2,632	\$17.87
		5,001	\$3,339	\$20.01
		10,001	\$4,330	\$13.06
		20,001	\$5,644	\$4.28
		50,001	\$8,827	\$4.26
		100,001	\$9,864	\$5.52
Tenant Improvements		1*	\$1,892	\$47.98
		801	\$2,273	\$89.42
		1,251	\$2,875	\$54.91
		2,501	\$3,360	\$26.87
		5,001	\$4,835	\$9.49
		12,501	\$4,742	\$12.72

1 of 2

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Willdan also proposes a reduction of about \$39.48 for residential SFR build in a production phase. Page 35 also includes a reduced fee for 'Residential – Production Phase' units to a calculated fee of \$2,888.52 for the typical SFR 2,000 sf Type-V built in a tract.

Subsequently, the fee for a 'Single or Multi' SFR of 2,000 sf calculates to \$3,384.50 and a production unit of 2,000 sf equals \$2,888.52.

Resolution No. 2007-117

The fee currently in effect from 2007 for a Single (Custom, Model) R-3 SFR should amount to \$1,223 and a production SFR should have a fee of \$660.

Willdan's current *Report* recommends an increase of \$2,062 for the custom/model building permit and \$2,228.52 for a tract production SFR over the current fee.

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit D

Resolution No. 2007-117, October 9, 2007, page 16

BUILDING DEPARTMENT

EXHIBIT B

Consolidated Schedule of New Construction Fees
(All Construction Types)

		Construction Types: I FR, II FR			Construction Types: II 1-HR, III 1-HR, V 1-HR			Construction Types: II N, III N, IV, V N		
UBC Class	UBC Occupancy Type	Project Size Threshold	Base Cost @ Threshold Size	Blended Cost for Each Additional 100 s.f.*	Base Cost @ Threshold Size	Blended Cost for Each Additional 100 s.f.*	Base Cost @ Threshold Size	Base Cost @ Threshold Size	Blended Cost for Each Additional 100 s.f.*	
R-3	Dwellings - Custom, Models,	1,500	n.a.	n.a.	n.a.	n.a.	\$1,166	\$36.10		
		2,500	n.a.	n.a.	n.a.	n.a.	\$1,540	\$23.46		
		4,000	n.a.	n.a.	n.a.	n.a.	\$1,892	\$26.44		
		5,000	n.a.	n.a.	n.a.	n.a.	\$2,156	\$33.45		
		7,500	n.a.	n.a.	n.a.	n.a.	\$2,992	\$38.73		
		10,000	n.a.	n.a.	n.a.	n.a.	\$3,980	\$39.00		
R-3	Dwellings - Production Phase	1,500	n.a.	n.a.	n.a.	n.a.	\$660	\$0.00		
		2,500	n.a.	n.a.	n.a.	n.a.	\$860	\$11.73		
		4,000	n.a.	n.a.	n.a.	n.a.	\$936	\$22.00		
		5,000	n.a.	n.a.	n.a.	n.a.	\$1,066	\$7.02		
		7,500	n.a.	n.a.	n.a.	n.a.	\$1,232	\$10.58		
		10,000	n.a.	n.a.	n.a.	n.a.	\$1,498	\$14.96		
R-2.1	Group Care, Non-Amb. (6+)	250	\$1,109	\$58.76	\$924	\$47.30	\$730	\$37.84		
		1,250	\$1,678	\$90.88	\$1,397	\$42.23	\$1,118	\$33.78		
		2,500	\$2,310	\$14.77	\$1,025	\$12.31	\$1,540	\$0.85		
		5,000	\$2,879	\$19.88	\$2,233	\$16.57	\$1,786	\$13.25		
		12,500	\$4,170	\$17.86	\$3,475	\$14.88	\$2,780	\$11.90		
		25,000	\$8,403	\$25.61	\$5,335	\$21.34	\$4,268	\$17.07		
R-2.2 &	Group Care, Ambulatory (6+)	250	\$1,214	\$64.69	\$1,012	\$53.89	\$810	\$43.11		
		1,250	\$1,861	\$67.02	\$1,551	\$47.52	\$1,241	\$38.01		
		2,500	\$2,574	\$17.95	\$2,145	\$14.97	\$1,716	\$11.07		
		5,000	\$3,023	\$20.95	\$2,519	\$17.46	\$2,015	\$13.97		
		12,500	\$4,594	\$20.79	\$3,829	\$17.30	\$3,063	\$13.66		
		25,000	\$7,193	\$28.77	\$9,995	\$23.98	\$4,795	\$19.18		
R-2.1.1	Group Care, Non-Amb. (1-5)	300	\$1,336	\$98.01	\$1,115	\$49.15	\$892	\$39.34		
		1,500	\$2,046	\$62.14	\$1,705	\$43.45	\$1,384	\$34.76		
		3,000	\$2,828	\$16.24	\$2,357	\$13.53	\$1,885	\$10.82		
		6,000	\$3,315	\$19.35	\$2,782	\$16.12	\$2,210	\$12.90		
		15,000	\$5,057	\$18.91	\$4,214	\$15.77	\$3,371	\$12.61		
		30,000	\$7,893	\$26.31	\$6,579	\$21.93	\$5,262	\$17.54		
R-2.2.1 &	Group Care, Ambulatory (1-5)	300	\$1,339	\$59.01	\$1,115	\$49.18	\$892	\$39.34		
		1,500	\$2,048	\$52.14	\$1,700	\$43.45	\$1,384	\$34.78		
		3,000	\$2,828	\$16.24	\$2,357	\$13.53	\$1,885	\$10.82		
		6,000	\$3,315	\$19.35	\$2,782	\$16.12	\$2,210	\$12.90		
		15,000	\$5,057	\$18.91	\$4,214	\$16.77	\$3,371	\$12.61		
		30,000	\$7,893	\$26.31	\$6,579	\$21.93	\$5,262	\$17.54		
S-1	Misc Storage	1,000	\$1,263	\$18.04	\$1,044	\$15.28	\$836	\$12.23		
		5,000	\$1,067	\$15.70	\$1,050	\$13.09	\$1,325	\$10.47		
		10,000	\$2,772	\$5.80	\$2,310	\$4.82	\$1,848	\$3.66		
		20,000	\$3,352	\$4.88	\$2,792	\$4.04	\$2,234	\$3.24		
		50,000	\$4,810	\$6.20	\$4,005	\$5.17	\$3,205	\$4.13		
		100,000	\$7,910	\$7.91	\$6,550	\$6.59	\$5,270	\$5.27		
S-1	Moderate Hazard Storage	1,000	\$1,484	\$20.84	\$1,245	\$17.37	\$898	\$13.90		
		5,000	\$2,328	\$18.12	\$1,940	\$15.10	\$1,662	\$12.08		
		10,000	\$3,234	\$6.18	\$2,695	\$5.15	\$2,159	\$4.12		
		20,000	\$3,852	\$8.14	\$3,210	\$5.12	\$2,568	\$4.09		
		50,000	\$6,695	\$6.85	\$4,745	\$5.71	\$3,795	\$4.57		
		100,000	\$9,120	\$9.12	\$7,800	\$7.60	\$6,080	\$6.08		

EXHIBIT 'B' Page 16 of 20

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Recap of Willdan's Recommendations

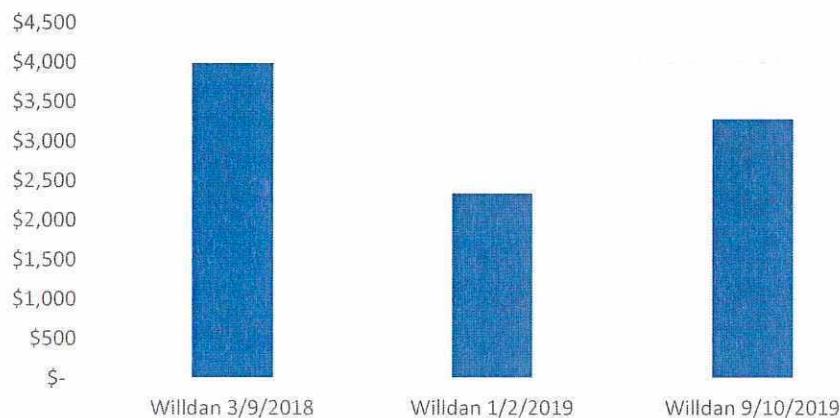
The fee schedule in the next two exhibits illustrate the varying fees proposed by Willdan since March 9, 2018:

Exhibit E

Willdan 3/9/2018	\$ 3,992
Willdan 1/2/2019	\$ 2,342
Willdan 9/10/2019	\$ 3,285

Exhibit F

Cost of a Building Permit Fee for a Single Family
Residential 2,000 Type-V



The Building Department Postings of Building Permit Costs for a R-3 SFR 1,500 sf V

The City Building Department has posted a web page on the Department's web site at least four time since January 15, 2015. The latest post is dated July 1, 2019:

<https://banningca.gov/DocumentCenter/View/6323/1500-SqFt-SFD-Fee-Handout-2019>

Recap of current, fees posted by Building & Safety on the Web and fees recommended by Willdan's Reports for a typical model or custom R-3 SFR 1,500 sf Type-V:

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

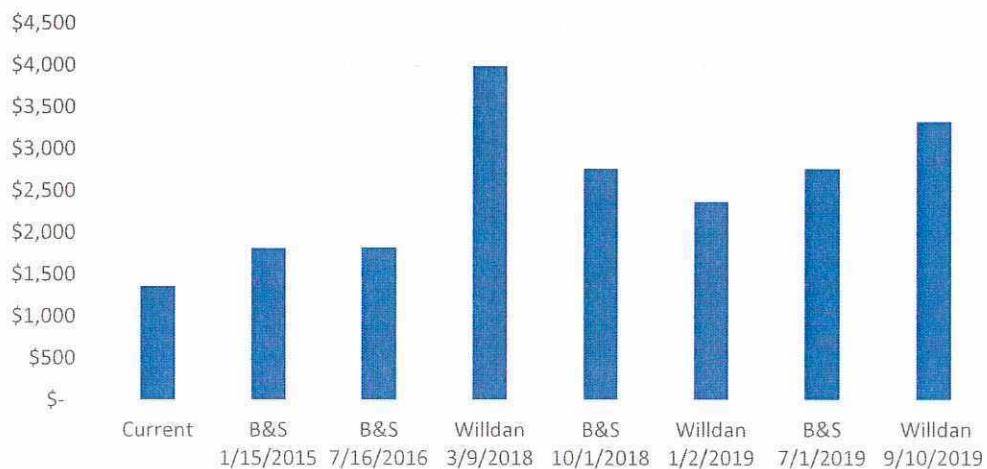
Exhibit G

	<u>Permit Fees</u>	<u>Custom</u>	<u>1,500 sf</u>
1	Res. No. 2007	Current ³	\$ 1,364
2	B&S Post	2015	\$ 1,817
3	B&S Post	2016	\$ 1,825
4	Willdan Report	Mar-18	\$ 3,679
5	B&S Post	Oct-18	\$ 2,766
6	Willdan Report	19-Jan	\$ 2,187
7	B&S Post	19-Jul	\$ 2,766
8	Willdan Report	10-Sep	\$ 3,067

This exhibit provides a graph of the current and variable Building Permit fees, posted and recommended by Willdan for the R-3 SFR 1,500 Custom home.

Exhibit H

Cost of a Building Permit Fee for a Single Family
Residential 1,500 Type-V



Previous Public Records Request

Earlier this year, BIA submitted a Public Records Request for the 'back-up' worksheets produced by Willdan for which they based their recommendations and paid for with public funding. The City replied that Willdan's worksheets are proprietary and Willdan will not release their work product which they rely upon to recommend their 'reasonable estimate' of cost to provide building department services. Considering the variable fees that the City and Willdan find reasonable, it is very difficult to ascertain the

³ October 9, 2007

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

reasonableness of the current proposed building permit fee without access to Willdan's worksheets or accounting backup.

Willdan's Fee Recommendations based upon Fully Burdened Hourly Rate

Willdan explains below that the "standard fee limitation" in California law is the "estimated, reasonable cost" serves as the "objective basis as to the maximum that may be collected."

Willdan informs the reader that the ' . . . total cost of each service included in this analysis is primarily based on the Fully Burdened Hourly Rates (FBHRs) . . . '

Exhibit I



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.

Willdan makes the point that the FBHR includes:

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit J

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

Willdan continues by informing the reader that the calculated FBHR is further adjusted by dividing the full cost by the number of productive hours. Willdan does not provide the exact number of productive hours they use in their calculation of a fee's cost in their Report to the City of Banning. But they have provided the number of production hours amounting to 1,650 hours for other cities in their worksheets:

Exhibit K

City of Murrieta, 2018

Position	Sum S&B	Count	Avg. S&B	%FT	Productive Hours	DPTO%	GGO%	FBHR
BUILDING & SAFETY - BUILDING INSPECTOR III	\$344,610.00	3	\$114,870.00	100%	1650	2%	23%	\$87.36
BUILDING & SAFETY - BUILDING OFFICIAL	\$162,356.00	1	\$162,356.00	100%	1650	2%	23%	\$123.48
BUILDING & SAFETY - DEVELOPMENT SERVICES TECH	\$271,950.00	3	\$90,650.00	100%	1650	2%	23%	\$68.94
BUILDING & SAFETY - SR PLANS EXAMINER	\$119,010.00	1	\$119,010.00	100%	1650	2%	23%	\$90.51

City of Murrieta

Comprehensive User Fee Study

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Position	FBHR
ADMIN SERVICES - ADMIN SERVICES DIRECTOR	\$145.28
ADMIN SERVICES - ADMINISTRATIVE SECRETARY AT-WILL	\$50.32
BUILDING & SAFETY - BUILDING INSPECTOR III	\$87.36
BUILDING & SAFETY - BUILDING OFFICIAL	\$123.48
BUILDING & SAFETY - DEVELOPMENT SERVICES TECH	\$68.94
BUILDING & SAFETY - SR PLANS EXAMINER	\$90.51

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit L

City of Hemet, 2014

1415 Employment Data

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit M

The Hourly Service Rates of a Building Inspection, a Plan Check, and a Plan Check Engineer

Willdan only posted the FBHR for one position in their *Report*: The Building Safety Office Specialist at \$40.94 per hour, and that rate remained the same in all three *Reports*.

City of Banning, CA

Fully Burdened Hourly Rate Calculation

Department	Position	Fully Burdened Hourly Rate
Position Rates		
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	195.44
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	97.16
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

Comprehensive User Fee Study

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However, Willdan posted the hourly service rates of a Building Inspection, a Plan Check, and a Plan Check Engineer:

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit N

City of Banning, CA
Fully Burdened Hourly Rate Calculation

Department	Position	Fully Burdened Hourly Rate
Position Rates		
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	195.44
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	97.16
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

Although Willdan Willdan posted the hourly service rates of a Building Inspection, a Plan Check, and a Plan Check Engineer:

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit O

March 9, 2018

23	Inspection fee- hourly	New					\$183.33	0%	\$183.00	NA
24	Job card- replace/ duplicate	New					\$55.00	0%	\$55.00	NA
25	Lighting pole (up to 6)	New					\$783.33	0%	\$783.00	NA
26	Lighting pole (up to 6 additional)	New					\$172.50	0%	\$172.00	NA
27	Manufactured home- installation on private property	New	each				\$538.03	0%	\$538.00	NA
28	Modular unit- installation on private property	New	each				\$658.87	0%	\$658.00	NA
29	Patio cover- custom	New	each				\$514.85	0%	\$514.00	NA
30	Patio cover- metal, ICC, IAPMO	New	each				\$256.10	0%	\$256.00	NA
31	Patio cover- wood, ICC, IAPMO or hardout	New	each				\$514.85	0%	\$514.00	NA
32	Patio enclosure	New	each				\$560.68	0%	\$560.00	NA
33	Plan check	New					\$161.67	0%	\$161.00	NA
34	Plan check- Engineer	New					\$291.67	0%	\$291.00	NA
35	Pool/spa- commercial	New	each				\$1,192.35	0%	\$1,192.00	NA
36	Pool/spa- residential custom	New	each				\$844.85	0%	\$844.00	NA
37	Pool/spa- residential fiberglass/vinyl-lined	New	each				\$571.52	0%	\$570.00	NA

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City of Banning

Comprehensive User Fee Study

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Exhibit P

January 2 (8), 2019

Building Department Fees			
Fees		Current Fee/Charge	Unit
#	Description		
1	Air handling/ heating or cooling unit replacement		
2	Additional plan review		
3	Additional plan review- Engineering		
4	Awning/ canopy (supported by building)		
5	Balcony/ deck	each	
6	Balcony/ deck railing repair		
7	Carport- custom	each	
8	Carport- ICC, IAPMO, hardout	each	
9	Cell tower- modifications		
10	Cell tower- new	each	
11	Change of occupancy		
12	Demolition of building	each building	
13	Electric panel replacement		
14	Exterior wall covering replacement (up to 400 s.f.)		
15	Fireplace- custom	each	
16	Fireplace- pre-fabricated with engineering	each	
17	Flag pole (over 20' in height)	each	
18	Grease trap/ interceptor		
19	Hood- other than Type 1 (including ducts)		
20	Hood- Type 1 (includes exhaust system)	each	
21	Inspection fee- hourly		
22	Job card- replace/ duplicate		
23	Lighting pole (up to 6)		
24	Lighting pole (up to 6 additional)		
25	Manufactured home- installation on private property	each	
26	Modular unit- installation on private property	each	
27	Patio cover- custom	each	

Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$192.50	0%	\$192.00	
\$161.67	0%	\$161.00	
\$291.67	0%	\$291.00	
\$250.68	0%	\$250.00	
\$490.68	0%	\$490.00	
\$296.52	0%	\$296.00	
\$944.02	0%	\$944.00	
\$490.68	0%	\$490.00	
\$400.53	0%	\$400.00	
\$1,418.03	0%	\$1,418.00	
\$417.35	0%	\$417.00	
\$408.18	0%	\$408.00	
\$192.50	0%	\$192.00	
\$421.67	0%	\$421.00	
\$583.33	0%	\$583.00	
\$548.33	0%	\$548.00	
\$644.85	0%	\$644.00	
\$330.00	0%	\$330.00	
\$491.67	0%	\$491.00	
\$629.17	0%	\$629.00	
\$183.33	0%	\$183.00	
\$55.00	0%	\$55.00	
\$783.33	0%	\$783.00	
\$172.50	0%	\$172.00	
\$538.03	0%	\$538.00	
\$658.87	0%	\$658.00	
\$514.85	0%	\$514.00	

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City of Banning

Comprehensive User Fee Study

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BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit Q

January 2 (September 10⁴), 2019

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

Building Department Misc. Fee			
Full Cost	Subsidy %	Suggested Fee	Fee Δ
\$115.50	0%	\$115.00	
\$133.00	0%	\$133.00	
\$165.00	0%	\$165.00	
\$163.00	0%	\$163.00	
\$305.50	0%	\$305.00	
\$190.50	0%	\$190.00	
\$570.50	0%	\$570.00	
\$305.50	0%	\$305.00	
\$265.50	0%	\$265.00	
\$854.50	0%	\$854.00	
\$251.50	0%	\$251.00	
\$25.00	0%	\$25.00	
\$256.00	0%	\$256.00	
\$115.50	0%	\$115.00	
\$253.00	0%	\$253.00	
\$353.00	0%	\$353.00	
\$330.50	0%	\$330.00	
\$388.00	0%	\$388.00	
\$198.00	0%	\$198.00	
\$298.00	0%	\$298.00	
\$380.50	0%	\$380.00	
\$110.00	0%	\$110.00	
\$60.50	0%	\$60.00	
\$463.00	0%	\$463.00	
\$105.00	0%	\$105.00	
\$348.00	0%	\$348.00	
\$409.00	0%	\$409.00	
\$323.00	0%	\$323.00	
\$165.50	0%	\$165.00	
\$323.00	0%	\$323.00	
\$350.50	0%	\$350.00	
\$125.00	0%	\$125.00	
\$247.50	0%	\$247.00	
\$714.50	0%	\$714.00	
\$521.00	0%	\$521.00	

City of Banning

User Fee Study

Building Depart Misc. Fee

Exhibit R

Summary

<u>Hourly Rates:</u>	<u>Willdan</u>	<u>Structural</u>	
	Inspection	Plan Check	Engineer
9-Mar-18	\$ 183.33	\$ 161.67	\$ 291.67
8-Jan-19	\$ 183.33	\$ 161.67	\$ 291.67
10-Sep-19	\$ 110.00	\$ 125.00	\$ 247.50

⁴ Although the version of the Willdan Report presented to the City Council at the Special City Council Meeting on January 8, 2019 and the public is dated January 2, 2019, it is not the same documents presented during that meeting. As for the building permit fees for the SFR, the proposed fees are extremely different as discussed about. They are higher!

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit S

Estimated Number of Building Department Staff Hours to Service a Building Plan Check and Building Permit Service Costs for the R-3 SFR 1,500 sf Type-V

A	B	C	D	E	F	G
1	<u>Hourly Rates:</u>	Assuming	50% inspection and	50% Plan Check		
2		Office		Structural		
3	SFR 1,500 SF	Specialist	Inspection	Plan Check	Engineer	Recommended
4	9-Mar-18	\$ 40.94	\$ 183.33	\$ 161.67	\$ 291.67	\$ 3,679
5					Divide by 2	2
6	PC and Insp Each					\$ 1,840
7	Plan Check 1 Hour	\$ 40.94			\$ 291.67	\$ 332.61
8	Remaining PC Hrs					\$ 1,507
9						\$ 161.67
10				Hours		9.32
11	Inspection Costs		\$ 1,840			
12	Inspec Hourly Rate		\$ 183.33			
13	No. of Insp Hours		10.03			
14				Total Hours		<u>10.03</u>
15						21.4
16		Office		Structural		
17	SFR 1,500 SF	Specialist	Inspection	Plan Check	Engineer	Recommended
18	8-Jan-19	\$ 40.94	\$ 183.33	\$ 161.67	\$ 291.67	\$ 2,187
19					Divide by 2	2
20	PC and Insp Each					\$ 1,094
21	Plan Check 1 Hour	\$ 40.94			\$ 291.67	\$ 332.61
22	Remaining PC Hrs					\$ 761
23						\$ 161.67
24				Hours		4.71
25	Inspection Costs		\$ 1,094			
26	Inspec Hourly Rate		\$ 183.33			
27	No. of Insp Hours		5.96			
28				Total Hours		<u>5.96</u>
29						12.7
30		Office		Structural		
31	SFR 1,500 SF	Specialist	Inspection	Plan Check	Engineer	Recommended
32	10-Sep-19	\$ 40.94	\$ 110.00	\$ 125.00	\$ 247.50	\$ 3,067
33					Divide by 2	2
34	PC and Insp Each					\$ 1,534
35	Plan Check 1 Hour	\$ 40.94			\$ 247.50	\$ 288.44
36	Remaining PC Hrs					\$ 1,245
37						\$ 125
38				Hours		9.96
39	Inspection Costs		\$ 1,534			
40	Inspec Hourly Rate		\$ 110.00			
41	No. of Insp Hours		13.94			
42				Total Hours		<u>13.94</u>
						25.9

The cost of the SFR 1,500 sf unit's cost for a plan check and building permit (inspection) hourly cost as presented in the September 10, 2010 *Report* produces the highest number of hours at 25.9 fully burdened hours.

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Exhibit T

Hourly Rates:

SFR 1,500 SF	Hours
9-Mar-18	21.4
8-Jan-19	12.7
10-Sep-19	25.9

The proposed fees for the R-3 SFR 2,000 sf Type-V dwelling included in the September 10, 2019 City Council Agenda/Willdan Report, produces the calculated 27.8 hours to provide plan check and inspection services.

Exhibit U

A	B	C	D	E	F	G	
1	Office			Structural	Recommended		
2	SFR 2,000 SF	Specialist	Inspection	Plan Check	Enginer	Fee	Hours
3	10-Sep-19	\$ 40.94	\$ 110.00	\$ 125.00	\$ 247.50	\$ 3,285	
4					Divide by 2		2
5	PC and Insp Each					\$ 1,643	
6	Plan Check 1 Hour	\$ 40.94			\$ 247.50	\$ 288.44	2
7	Remaining PC Hrs					\$ 1,354	
8				\$ 125.00		\$ 125	
9					Hours	10.83	10.83
10	Inspection Costs		\$ 1,643				
11	Inspec Hourly Rate		\$ 110.00				
12	No. of Insp Hours		14.93				
13					Total Hours		27.8

Additional BIA Considerations

Contract SVC-Professional/Professional Services - Charles Abbot

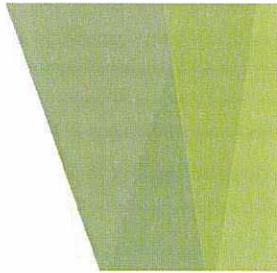
The FY18-19 & FY19-20 BUDGET WORKSHOP May 22, 2018, presented the following statement concerning the professional services contract for Charles Abbott for 'building and PC fees':

"An increase in Professional Services for Charles Abbot at 91% building permit and PC Fees, Increase in budget of \$154,570."

Exhibit V

Significant Fiscal Impacts

- ▶ An increase in Professional Services for Charles Abbot at 91% building permit and PC Fees, Increase in budget of \$154,570



Charles Abbott Associates, Inc.
27401 Los Altos, Suite 220
Mission Viejo, CA 92691

BIA recommends that the City not implement their adopted Building Department fee until they establish their in-house building department with a city employee as the Building Official.

Outside Department Cost that charge against the Building Department Fee Revenue

The Two-Year Budget for FY 2018/2019 and FY 2019/2020 indicates that the Building Department is staffed by the Community Development Director and an Office Specialist:

Exhibit X

Table 4

City of Banning Citywide Personnel Summary by Fund/Division				
Description	Adopted 2016-17	Adopted 2017-18	Projected 2018-19	Projected 2019-20
BUILDING SAFETY (2700)				
Community Development Director	0.60	0.60	0.60	0.60
Office Specialist	1.00	1.00	1.00	1.00
DIVISION TOTAL FTE	1.60	1.60	1.60	1.60
CODE ENFORCEMENT (2740)				
Senior Code Compliance Officer	1.00	1.00	1.00	1.00
Code Compliance Officer	1.00	1.00	1.00	1.00
DIVISION TOTAL FTE	2.00	2.00	2.00	2.00
PLANNING (2800)				
Community Development Director	0.40	0.40	0.40	0.40
Senior Planner	1.00	1.00	1.00	1.00
Development Project Coordinator	1.00	1.00	1.00	1.00
DIVISION TOTAL FTE	2.40	2.40	2.40	2.40

Please note that the Community Development Director's position is divided in a 60% split to Building & Safety and 40% to Planning.

Considering the current proposed hourly rate of the building inspection at \$110 in the Willdan Report for September 10, 2019 public hearing, without access to their calculations we do not know if they considered this 60% allocation of the Community Development Director's cost. We also do not know if the 60% is charged before or after the 91% goes to CAA.

The first amendment to the contract with CAA dated October 14, 2015 included the following schedule of hourly rates. Subsequent amendments to the CAA contract do not contain a hourly rate schedule. The footnote states that these hourly rates adjust annually by the CPI. Compare the hourly rates from the following table to the CAA hourly rate schedule to those proposed by Willdan in their various *Reports*:

Exhibit Y

<u>Hourly Rates:</u>		Willdan	Structural
	Inspection	Plan Check	Engineer
9-Mar-18	\$ 183.33	\$ 161.67	\$ 291.67
8-Jan-19	\$ 183.33	\$ 161.67	\$ 291.67
10-Sep-19	\$ 110.00	\$ 125.00	\$ 247.50

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

We do not know how Willdan calculates their proposed hourly rates, so we do not know if they reflect CAA's current hourly schedule and if they included charges from other city departments. Why did Willdan drop their hourly rates for the September 10, City Council Report? Reviewing the schedule below, how did Willdan estimate the very high hourly rates for the Structural Engineer?

Exhibit Z

STANDARD HOURLY RATE SCHEDULE

<u>CLASSIFICATION</u>	<u>HOURLY RATES</u>	<u>CLASSIFICATION</u>	<u>HOURLY RATES</u>
Principal Engineer	175.00	Principal Building Official	145.00
City Engineer	165.00	Building Official	122.00
Project Supervisor	145.00	Senior Building Inspector	110.00
Project Manager	135.00	Building Plan Checker	97.00
Project Engineer	130.00	Building Inspector/Plan Checker	90.00
Sr. Registered Engineer	125.00	Code Enforcement Officer	75.00
Senior Design Engineer	115.00	Permit Specialist	66.00
Associate Engineer	110.00		
Assistant/Design Engineer	98.00	Community Development Director	145.00
		Principal Planner	132.00
Senior Traffic Engineer/Manager	150.00	Senior Planner	107.00
Transportation Planner	110.00	Associate Planner	97.00
Traffic Engineer Associate	95.00	Planning Technician	68.00
Sr. Draftsperson (CADD)	90.00	Landscape Director	116.00
Draftsperson (CADD)	80.00	Associate Landscape Architect	95.00
Computer Technician	80.00	City Forester	88.00
Senior Public Works Inspector	95.00	Expert Witness Services	200.00
Public Works Inspector	87.00	Senior Contract Administrator	107.00
3-Person Survey Crew	270.00	Administrative Assistant	57.00
2-Person Survey Crew	210.00	Word Processor	50.00
		Clerical	45.00

The above hourly rates include general and administrative overhead and fees and employee payroll burden.

The above hourly rates are subject to an annual adjustment based upon increases adopted by Charles Abbott Associates, Inc., as reflected in the Consumer Price Index (CPI).

Considering the wide range of fees and hourly rates that Willdan's various Reports recommend and lacking the 'backup' accounting to review relative to these recommendations, BIA recommends that the City consider alternative perspectives concerning "reasonable" fees that do not exceed actual cost of providing the services rendered by the Building Department.

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Another City's Example

The City of Beaumont and their Fixed Fee for 1 or 2 Family R-3 SFR Type-V Dwellings

In late 2017, MGT Consulting provided a user fee study report to the City of Beaumont including recommendations concerning their Building Department fees related to R-3 SFR V-B. BIA found evidence and calculated the following in their review of the City of Beaumont's documents:

- The blended fully burdened hourly rate (FBHR) of the positions in the building department was \$159.40.
- The estimated revenue of \$1,845,656 divided by the FBHR equaled 11,579 staff hours.
- The number of direct hours for each position within the Building Department was 1,462.
- The estimate revenue from just building permits issued to 425 units with Payment of \$4,342.72 purchases about 27.2 hours of staff time per unit.

Even the Mayor at that time, Mike Lara, who is also the Building Official for the County of Riverside publicly agreed in the City Council meeting that that the number of 27.2 hours seemed high to him. The following year the City of Beaumont modified their fees which reflect a fixed fee for 1 or 2 Family Dwellings (SFR) amounting to \$2,367.41.

Exhibit AA

Single Family Residential Dwelling Plan Check and Inspection Fixed Fee 2018



09/05/2018

City of Beaumont Development Related Fee Schedule

Service Name	Fee Description	Adopted Fee
Appeal of Construction Board of Appeals or Accessibility Board of Appeals	Fixed Fee	\$703.40
1 or 2 Family Dwelling (Single Family Home)	Fixed Fee	\$2,367.41
Permit/Application Revision Fee (Residential Tracts Only)	Per Lot Fee	\$238.60

The City of Beaumont's fixed fee is very close to the R-3 SFR for the 1,500 sf dwelling fee of \$2,187 introduced by Willdan during the January 8, 2019, City Council Meeting.

Use of the Consumer Price Index (CPI) Inflator as a process to modify or increase fees.

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Willdan discussed the option of using an inflationary factor such as the Consumer Price Index (CPI) each year rather than adopt the user fees, by resolution, in further action of the Council.

"[I]t 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."

City of Banning Comprehensive User Fee Study 3

Exhibit AB



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.

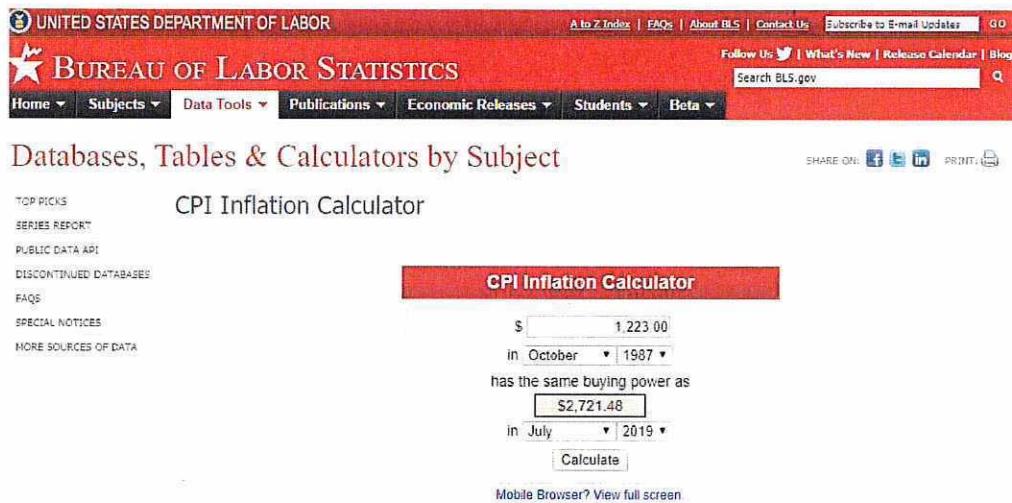
Each City should use an inflator that they believe works the best for their specific situation and needs. It is also recommended that the City perform this internal review annually with a comprehensive review of services and fees performed every three to five years, which would include adding or removing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

As an alternative, BIA recommends that the City consider Willdan's proposed recommendations to staff to adjust or modify current Building Department fees by the proposed CPI discussed in the staff report from the earlier fees only if they adjust or modify the adopted Building Department by resolution (See page 3, *City of Banning Comprehensive User Fee Study Report*).

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

Second, if the City Council considers Willdan's proposed recommendation and adopts the fees for a building permit for a typical, R-3 SFR 1,500 sf Type V dwelling based upon the CPI increase from the date of the adoption Resolution No. 2007-117, October 9, 2007 to January 1, 2019: The 2007 fee for the 1,500 sf SFR of \$1,223 increased to \$2,721.48, instead of Willdan's recommendation of \$3,258. Currently Willdan recommends an increase of \$563.52 (21.1%) over the CPI.

Exhibit AC



The screenshot shows the Bureau of Labor Statistics website with the CPI Inflation Calculator. The calculator interface is as follows:

- Input: \$ 1,223.00
- From: in October 1987
- Output: has the same buying power as \$2,721.48
- To: in July 2019
- Buttons: Calculate, Mobile Browser? View full screen.

About the CPI Inflation Calculator

The CPI inflation calculator uses the [Consumer Price Index](#) for All Urban Consumers (CPI-U) U.S. city average series for all items, not seasonally adjusted. [This data](#) represents changes in the prices of all goods and services purchased for consumption by urban households.

The CPI provides the City with a possible alternative that provides an "estimated reasonable cost of providing the service for which the fee is charged . . ." Government Code §66014.

Final Recommendations by BIA-Riverside

The BIA recommends that the City Council consider the user fees for Building Department service fees as presented in the January 8 City Council workshop as the more reasonable alternative and more sensible.

Concerning the proposed fees for a repeat production tract dwelling represents about 53% of the custom home fee in the current 2007 fee schedule. BIA recommends that the City follow this percentage in calculating the fees for a repeat production SFR.

BIA Comments about *City of Banning Comprehensive User Fee Study Report*

If the Finance Department is not currently applying the Revolving Fund accounting methodology for the building department and other departments serving the public, then require the Finance Department to convert.

The City should consider creating and publishing rules and regulations that provide written direction to staff on how to apply the building department fees provided in the final adopted user fee schedule so that the public and staff understand the applicability of these fees to their project.

BIA recommends bifurcating the adoption of the Willdan *Report* and fee schedule and continuing the fees schedules relating to the Building Department service fees until they consider the BIA recommendations provided above, after they adopt the 2019 California Building Standards Code later this year, and until the City signs an employment agreement with a staff Building Official.

Exhibit B

For the past two City Council meetings the public has been forced to endure Don Peterson's lengthy and feeble attempt at defending himself against the allegations put forth in the latest Grand Jury Report. His defensive position is to deny all wrong doing, and instead push the blame onto everyone else and, in his usual manner, attempt to destroy their reputations. **I am totally aware that this document will bring the usual vicious response from him and his loyal followers.** After all, I have been off of the City Council for over 8 months, and yet he still continues to attack me for no reason other than to deflect the public from recognizing what he truly is.

How does one respond to Peterson's unsubstantiated, rumor filled, half-truth, and outright lies? How does one stand up to him and his "Kool-Aid drinking posse" of Jerry Westholder and his wife, David Ellis, Inga Schuler, Ed Miller and a few others, who will follow his instructions and do and say anything he wants them to.? How does one defend themselves against an onslaught of social media lies and character assassination, led and directed by Peterson and his gang using anonymity and fake names to spread their vile?

THE TRUTH – THAT IS THE ANSWER, The whole truth, not that garbage spread through by Peterson and his close friend Gobels of the Banning Informer. Not that trash that Peterson and his friends use to attack anyone and anything they want on social media.

Here are some truths:

1. The Grand Jury report refers to Don Peterson and no one else. – He can say all he wants that it does not mention him by name. However, he had no trouble at all in wildly accusing Art Welch of being the subject of a previous Grand Jury report, when in fact no one was specifically named in that one either. In fact, part of his current defense is to initiate censure on Welch based on that very report. As usual, Peterson wants to have his cake and eat it to. Of course, he had his puppets step up and support his denial. For example, Jerry Westholder, who was an eager supporter of the previous Grand Jury report against Art Welch, stepped up and call the current action, "was nothing more than a kangaroo court."
 - a) He accuses me of being the one that created a hostile work environment and points out incidents where I was harsh and demanding with two specific staff members. In fact, I did respond negatively to a couple of progress reports presented to the Council that I felt were totally lacking in timeliness, substance and accuracy. He specifically calls me out regarding my verbal disagreements with Ted Shove. However, these occasions were done behind closed doors, and later I apologized. In addition, he doesn't bother to tell you what he was doing behind the scenes. For example, in a June 10th email he wrote, "Thanks for that up-date George. All I can say is: This guy is full of shit and needs to go!" On the other hand, Mr. Peterson's continual public abuse and ridicule in Open Sessions of many staff members, accusing them of trying to intentionally deceive the Council, accusing them of having criminal intent, and using other demeaning adjectives is well known throughout the community. A custom of his that has caused several employees to be afraid to do their jobs and others to leave the City for fear of being his next target.
 - 1) Brian Guillot, then Planning Director was one of Don's targets after he told a contractor to replace a contracted employee. He became fearful for his job due to pressures and accusations being made against him. As a result, he chose to take early retirement and leave the City.
 - 2) Fred Mason ran our electrical utility. He chose early retirement rather then take the continuous verbal abuse being heaped on him by Peterson.
 - 3) Patty Nevins, Brian's replacement, left because she could no longer tolerate the negative and fearful atmosphere created by Don Peterson.

- 4) I understand that former Police Chief and Interim City Manager wrote a letter in defense of Don. That was a total shock to me. Why? Because I was sitting at home on a Saturday morning when Alex called me to say he was going to resign Monday morning. When asked why, he said he could not take Don's abuse and false accusations any more. I had been aware of two accusations Don made against Alex. One had to do with the BPAL program and the possibility of funds being missing. I know this because Don emailed me asking me to look into it, which I did, and found nothing wrong. However, the accusation had been made and was so publicly known that Alex disbanded the BPAL program. The other accusation was against Alex's morals. Don made damning accusations about Alex personally. These two personal attacks were less than one month apart and followed very quickly with Alex's resignation.
- 5) Jennifer McCoy came to Banning with experience and full knowledge of the tough job she was inheriting. Purchasing had been a disaster. Policies were too old and often conflicting. With Council approval she instituted new policies and brought order to our purchasing. Was the transition without problems? No, but in the end, we now have a system that is technologically current and working well. However, she left for the same reasons listed above. The straw that broke her back was Don's interference in her handling of the contract for the utility audit. Once the RFP for the utility audit responses were received and analyzed three respondents were brought to the Council for our decision on which one to use. Most of the Council were in favor of one applicant, but Don insisted we give the contract to his specific choice. In an effort to show him my willingness to work with him I went along with his choice. Later on, during final contract negotiations things became complicated. It was then that I discovered that Don and the potential vendor were communicating personally regarding the contract, the vendor trying to solicit Don's personal interference. I am not saying that our staff was totally correct in their handling of this matter, but Don's personal involvement was totally out of line. One thing has come to the surface since the letting of this contract. It is rumored that Christy White, the vendor, and Don went to school together and that is why he insisted that we hire her firm. Let it be known that the primary reason that firm was not the first choice of the Council was their inexperience in the type of audit we were asking for. It is my understanding that the audit was started some time ago, yet due to their lack of experience is still not completed.
- 6) Andy Takata was City Manager, and although before my time on the Council, respected and effective. Don led the charge to get him out. You already know how much that cost the City. What is really ridiculous is when last we were determining the qualities, we wanted in our next City Manager Don's response was "We need someone like Andy Takata."
- 7) John Cotti, acting City Attorney at the time left because of all the false accusations being spewed against him by Don. I asked John why he did not sue the City if the work place was so hostile. He told me that it would be a really bad career move and detrimental to his firm if they sued a City they worked for. I was told this very thing by other employees who left the City under similar conditions.

All of the people listed above either retired or moved on to bigger and better jobs. Their only problem in working for Banning is that they did not always bend to Peterson's will.

There were others that I have not mentioned that have incurred the wrath of Peterson and either left on their own terms or were forced out. Some of them made headlines and cost the City a lot of money. At last count, two police chiefs, 8 City Managers, two Finance Directors, two Planning

Directors, and one Public Works Director. All individuals that Mr. Peterson could not work with for one reason or another. All individuals who he refused to work with. All individuals that he continually attacked and undermined with staff.

It is not me that uses social media to attack Council members and staff. Peterson's use of the fake news operation known as the Informer and other social media means to do just that. It is not council members David Happe or Coleen Wallace that make "statements that "incite" the public" as he stated in the Record Gazette interview. It is your use of false information and inuendo to attack other Council members and City staff members that is well documented.

So, NO DON you can blame me all you want. You can sight a couple of times where behind closed doors I may have been too aggressive in my conversation with some staff members. However, your track record of publicly abusing staff, using social media to attack staff, and undermining City Management with staff is well documented. This is why the Grand Jury report is written about you and nobody else.

- b) Over the past several years Peterson has claimed to have saved the community millions of dollars. To be fair there have been some instances when he has pointed out areas of concern relating to business practices and the handling of contracts that ultimately were reviewed and monies were saved. Also, his initial concerns relating to the usage of bond monies and redevelopment funds had some merit, and were worth investigating. However, he would have been much more affective had he been willing to work in a professional manner with his fellow Council members and City Managers. Instead of saving the City money, his methods produced an overall record that reflects a much different picture. As reported in the media, and in the Grand Jury report he has actually cost the City millions. In addition to the reported costs his constant call for unwarranted investigations, filing of complaints with the Grand Jury, and lengthy public documents requests have cost us hundreds, maybe thousands of, staff work hours. Due to his inability to work with any City Manager, past or present, he has created immense billing from our City Attorneys, past and present. It is estimated that he is responsible for billing that is equal to 4 times that of the rest of the Council put together.
- c) Peterson alleges that it was Art Welch who circumvents the City Manager. Calling him out for the previous Grand Jury report accusing an unnamed Council member of directing the City Manager to help Diamond Hills by getting the bushes in front of their freeway frontage cut down. I never agreed with their findings and wrote my personal response to the Jury saying so. Michael Rock made that decision on his own. Art Welch merely messengered the request. This again is a Peterson attempt to deflect an accusation away from himself by blaming someone else. The fact is no matter who our City Manager has been, during his tenure, he has found a reason to condemn and accuse them of wrong doing so he can manipulate a change. This usually occurs right after he makes a demand on them that they refuse to carry out, or they make a decision he does not like. History has recorded all of these starting with Andy Takata right up through our current City Manager. Again, in the interest of fairness, I agree that some of the past interims needed to be replaced. However, most of them were merely trying to their job as prescribed by our City policies and existing laws. Unfortunately, as is the case currently, even though Peterson initially loved the

choice, he quickly soured and began his full-frontal attacks to discredit them. Just as he continues to do against Doug Schultze in his interview reported in the Record Gazette of August 30th.

Don has constantly accused Debbie Franklin of circumventing the City Manager and taking up valuable staff time needlessly. All Debbie Franklin did in her years of service to our City was try to make things better. She served selflessly in multiple capacities. For example, she served on regional boards, even was the chair for WRCOG, trying to get more support for the Pass Area. She worked with many of our service organizations to help the needy of our community. For several years she has led the program to supply backpacks to the children of our community. In addition, her Christmas program to assist less fortunate families has helped countless children have a merry Christmas. She also was the driving force and organizer of our annual City's Disaster Preparedness event. Have we always agreed politically? No, but no one can doubt her complete dedication to the citizens of Banning. Well, no one but Don. He is intent on trying to ruin her reputation, and tried to put her Christmas Wish program out of business.

So, who does circumvent the City Manager? Again, it is Don Peterson. Because he has not been able to form a working relationship with most of our City Managers, he has concentrated on exerting his influence on certain key department heads and our Police Department. If he had spent as much time in solving all of City Halls problems as he did in police business more things may have been accomplished. He will say that he only used his years of police experience to advise and recommend things. Of course, he will deny ever demanding that his thoughts and suggestions be implemented. If you know this man at all you will already know that just isn't true. From day one, under Chief Purvis, he inserted himself in the operations of this department, and when the Chief refused to do his bidding a campaign was initiated to get him out. That campaign was successful at great cost to the City. Under Chief Diaz he was constantly delving into personnel issues. He and only he was meeting with the Banning Police Officers' Association. In fact, at one point he told them to not meet with me.

One huge example of this was reported in the August 16th edition of the Record Gazette Peterson imposed his influence over then Police Chief and Interim City Manager Alex Diaz and Planning Commissioner David Ellis. According to the lawsuit on Sept. 11, 2013 Commissioner Ellis demanded that fire trucks parked along the San Gorgonio Avenue I-10 freeway bridge flying flags in honor of fallen fire fighters who had perished in the Sept. 11, 2001 attacks "be cited as Don Peterson had considered them to be in violation of California Vehicle code, which they were not. Officer Hobb refused to violate the law by issuing fraudulent traffic citations. It was reported that Peterson and then HR Personnel manager Rita Chaparrosa wanted Hobb terminated because he followed Chief Purvis's orders by filing a police report relating to the episode. Shortly thereafter Hobb was demoted. The article goes on to say, Diaz admitted to Hobb that the officer had been passed over for the promotion due to politically motivated pressure placed on Diaz by the city council." We all know that the final cost to the City for this fiasco was \$365,000.00.

Another example of influencing procedure was the investigation of a close relative of his. Another department asked for Banning assistance in securing DNA evidence relating to a case they were investigating. The subject was contacted by our detectives and agreed to come to police headquarters to comply with the DNA request. However, Peterson interceded and made a special request that then Sgt. Robert Fisher be allowed to come to his home and do the testing there. Fisher then went to Chief Diaz and was granted permission to do so. This was so out of line that the Banning Police Officers' Association requested the matter be investigated by a third party. The ultimate conclusions were that Peterson's request was inappropriate for many reasons and Chief

Diaz should have recognized that. The report goes on to say that the test "should have been conducted at the police station. Additionally, there should have been at least one additional member of the Banning Police Department present during the process. "

At some point in time Peterson felt his influence over Diaz was not firm enough and began the campaign previously reported to get him out. Upon successfully accomplishing that he began to push for the appointment of Sgt. Fisher to become our new chief. Due to Fisher's long service record with our City at first I was in total support of appointing him as Interim Chief. However, it was brought to my, and the other Council members', attention that he was just promoted to Sergeant, and did not meet the job qualifications for Lieutenant, let alone those for the Chief position. None the less I went along with Peterson to appoint him interim. I was aware of the personal relationship that existed between Peterson and Fisher and I told Fisher that he had my support as long as that relationship did not affect his performance as acting chief. Unfortunately, that was not the case. Emails sent to Fisher regarding important financial matters from the Finance Dept. were immediately forward to Don, and no one else, by Fisher. On one occasion Peterson was frustrated regarding the inability to get an answer to something. So, he called Fisher, and I quote from his email to me, "So, I called Fisher..... and within 30 minutes we both were meeting with the Plant Manager....." Many examples exist of his influence within the department, but I will conclude with his admission in a Council Meeting in May of 18 when he proudly spoke of his involvement in a drug sting operation that he proposed, designed, and purportedly participated in. All of these things done without the knowledge of the acting City Manager at the time.

- d) Peterson continually accuses myself, Welch, and Franklin of being bought and paid for by developers. He knows this is a lie, but it deflects the fact that he was bought and paid for by a wealthy land owner who until recently he reported to on a regular basis. I do not know how much funding Welch and Franklin had for their campaigns, but I do know that I had less than \$15,000. Admittedly some of the donations were from developers, but much of them were from regular people who recognized the need for a change. When the campaign was over I donated the balance to the local VFW and Little League. On the other hand, Peterson, Miller, and Westholder received massive campaign donations for the same land owner. I had heard that as much as \$40,000 for each of them. In Peterson and Westholder's cases this happened in two campaigns. So, who is bought and paid for? Those who received some minor contributions or those that got huge amounts of money.

In closing let me make it clear. Don Peterson is not a builder, not interested in working with others to improve things. He is a destroyer. A good example was his successful campaign to close down the Fire Museum and subsequent attacks on the Hammers. This was a wonderful little museum in our City that was maintained by some ex-firemen who donated their time and memorabilia for our residents. City Treasurer John McQuown wrote in an email dated April 13, 2015, "I took my grandsons (3 & 1 yrs.) to the fire museum Friday and they could not have had a better time. They were there just after Art Welch and John Sevaggio were there with approx. 30 pre-schoolers and I talked with Art this morning at coffee and they also had a fantastic time..... We have an entity here in our city that is beneficial to our community, loved by our children, and asks little if any in the way of CASH to run their operation". None of this meant anything to Peterson. He wanted a pound of flesh for a building that to this day sits vacant and is merely a storage facility for the police department.

He has tried to do similar things with other civic and non-profits in our city. He has attacked the Boys and Girls Club, Table of Plenty, the Sun Lakes Charitable Trust, and others. The Boys and Girls Club services our youth in

an invaluable way. They provide after school activities, mentorship, and leadership training to hundreds of children throughout Banning and the Pass area. He attacked the Sun Lakes Charity. An organization that has donated over 1.2 million dollars to dozens of Pass area charities. Most recently it was questioned whether donations made by the Charity to the Banning Senior Center were proper. I have already talked about his part in the closure of the BPAL program. No, he is not a builder, he is not someone who sees a problem and tries to fix it. He destroys.

In opening this message I alluded to the fact that Peterson uses social media to plant false information and impugn the reputations of people. The following is one small example of what I am referring to. It by no means comes close to the full force of his vileness when he puts his mind to it, but make my point.

In early November last year I was out of town for a couple of days. Upon my return a friend told me about the latest posting by Peterson that again said I was bought and paid for by developers. So, I emailed Don and asked, "I just got back in town and see that you continue to write crap about me on your face book page. What exactly is the purpose of your continued attacks? You tell me to my face that you are not doing these things, but then you turn around and write this junk. Which is it?"

He wrote back, "I don't recall writing anything. Which post are you referring to? Don't confuse shared items as my writing."

My response, "Your posting accusing me, Art, and Debbie of being bought and paid for by developers."

He responded, " Hahaha, Well, I was speaking to the Pardee Pres at the State of the City. He said to me, every Developer needs THREE (3) GREEN LIGHTS on the Council. I can tell you, Ed and I were RED lights."

My final response summarizes this whole message. "Yes, I see how that could be manipulated to infer that. However, you have taken that and are using it in an attempt to discredit me and others, for no other reason than you can.....".

Don once told me that he does not lie and knows how to write reports that will stand up in court. The truth is you lie all the time. You lie by uttering half truths and by taking things out of context and twisting them to suit your purpose. You use Council open session meeting, social media, and the Informer to say and write things that justifies your position and/or action taken. However, the TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH means nothing to you.

George Moyer

Exhibit C

RESOLUTION 2019-112
AND ORDINANCE 1551

UPDATING THE CITY'S
DEVELOPMENT IMPACT
FEE PROGRAM

September 10, 2019
Art Vela, P.E.
Director of Public Works

DEVELOPMENT IMPACT FEES (DIF)

- What are DIFs?

- One-time fees charged to new development to meet growth related infrastructure needs.
- Not an ongoing fee charged to residents or business owners.
- Not for operations and maintenance costs.
- Not for the share of facilities serving existing development.

EXISTING DEVELOPMENT IMPACT FEES (DIF)

- Includes: General (e.g. City Hall, etc.), Police, Fire, Parks, Traffic, Water and Wastewater.
- Last updated in 2006
 - Water (2004)
 - Wastewater (2005)
- There have been no adjustments to the fees since their last updates.

MITIGATION FEE ACT FINDINGS (GOVT. CODE §66001)

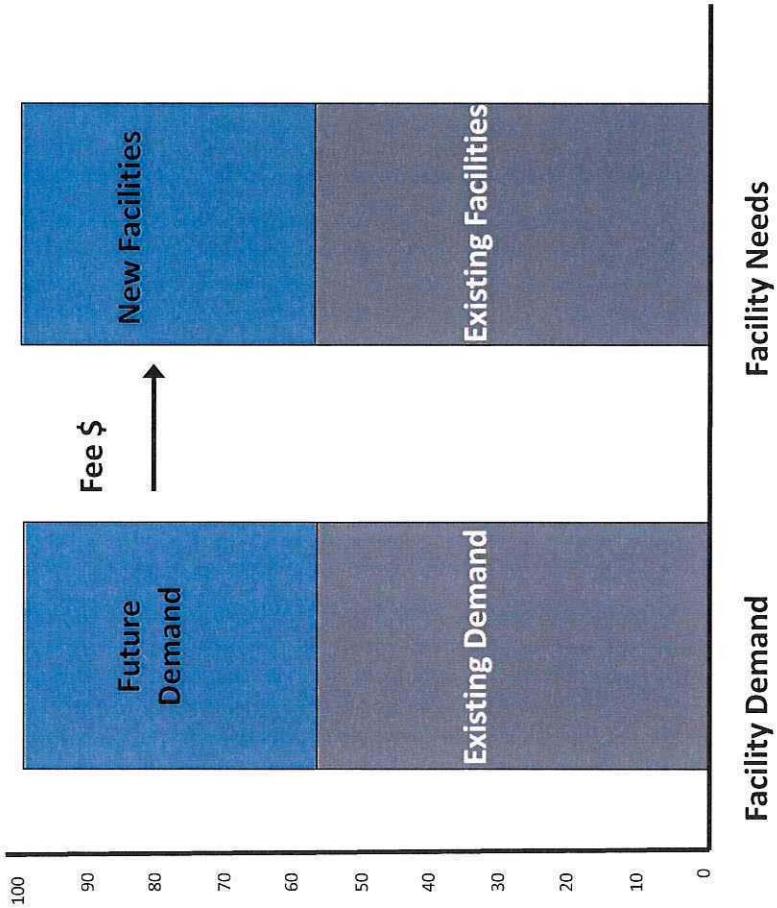
- Key findings
 - **Need:** Development ≈ Need for facilities
 - **Benefit:** Development ≈ Use of revenue
 - **Rough proportionality:** Fee amount ≈ development's share of facility costs
- Other findings
 - Purpose of fee: to fund fair-share costs of improvements needed to support development within the City
 - Use of fee revenue: Fund improvements

IMPACT FEES – BASIC METHODOLOGY

1. Estimate existing development and future growth
2. Identify facility standards
3. Determine new facility needs and costs
4. Allocate share to accommodate growth
5. Identify alternative funding needs
6. Calculate fee by allocating costs per **EXISTING INVENTORY** development

PLANNED FACILITY

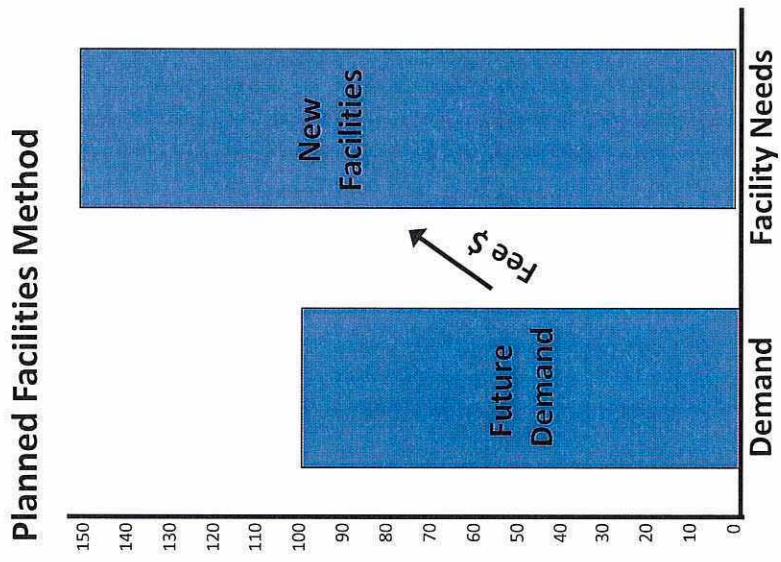
ALLOCATING COSTS OF NEW FACILITIES: EXISTING INVENTORY



- Based on a facility standard derived from the City's existing level of facilities and existing demand for services.
- This approach results in no facility deficiencies attributable to existing development.
- This approach is often used when a long-range plan for new facilities is not available.

ALLOCATING COST OF NEW FACILITIES: PLANNED FACILITY METHOD

- Use engineering models to demonstrate need for facilities to serve growth.
- Usually applicable for traffic and utility fees.
- May also identify existing deficiencies that must be funded by alternative revenue.



CITY OF BANNING IMPACT FEE CATEGORIES

EXISTING STANDARD

- Police
- Fire Protection
- Parkland and Parks
- General City Facilities

PLANNED FACILITY STANDARD

- Wastewater
- Water
- Traffic



MAJOR PLANNED FACILITIES

Police Facilities

- Share of Debt for Police Dept. Bldg.

Wastewater Facilities

- WWTP Upgrades
- Mains and lift stations as identified in the Integrated Master Plan (IMP)

Fire Facilities

- Facility expansions to be identified.

Parkland and Parks

- Over 23 acres of new parkland to maintain City's existing parkland standard

General Gov't Facilities

- City Hall, City Yard
- Highland Springs Avenue/I-10 Interchange

Traffic Facilities

- 36 intersections

Water Facilities

- Reservoirs, pump stations, wells and pipelines
- Recycled water facilities
- Improvements identified in the IMP

DIIF COST VS REVENUE

Fee Category	Net Project Costs	Projected DIIF Revenue	Additional Funding Required
Police Facilities	\$11,324,544	\$15,903,000	
Fire Protection Facilities	\$10,972,000	\$10,972,000	
Parkland and Parks	\$15,180,030	\$15,180,030	
General City Facilities	\$12,022,191	\$5,151,000	\$6,871,191
Wastewater Facilities	\$82,944,919	\$73,712,000	\$9,232,919
Water Facilities	\$210,351,986	\$165,829,200	\$44,522,786
Traffic Facilities	\$108,399,245	\$108,399,245	
TOTAL	\$451,194,915	\$395,146,475	\$56,048,440

MAXIMUM JUSTIFIED IMPACT FEES

Land Use	General	Police	Fire	Parks	Traffic	Water	Wastewater	TOTAL
Residential								
Single	\$521	\$1,200	\$746	\$3,840	\$3,410	\$9,744	\$5,061	\$24,522 (\$9,633)
Multi-Family	\$426	\$982	\$610	\$3,125	\$2,644	\$9,744	\$5,061	\$22,592 (\$7,378)
Non-Residential								
Commercial	\$493	\$351	\$486	-	\$8,319	*	*	\$9,649 (\$8,140)
Office	\$643	\$458	\$633	-	\$3,518	*	*	\$5,252 (\$3,667)
Industrial	\$239	\$170	\$236	-	\$1,791	*	*	\$2,436 (\$1,477)

- Water fee based on meter size. W/Water fee based on use.
- **(\$XXX)** is proposed increase in fee
- Non-Residential fees are per 1,000 square feet

INCREASE TO A SINGLE FAMILY DWELLING UNIT

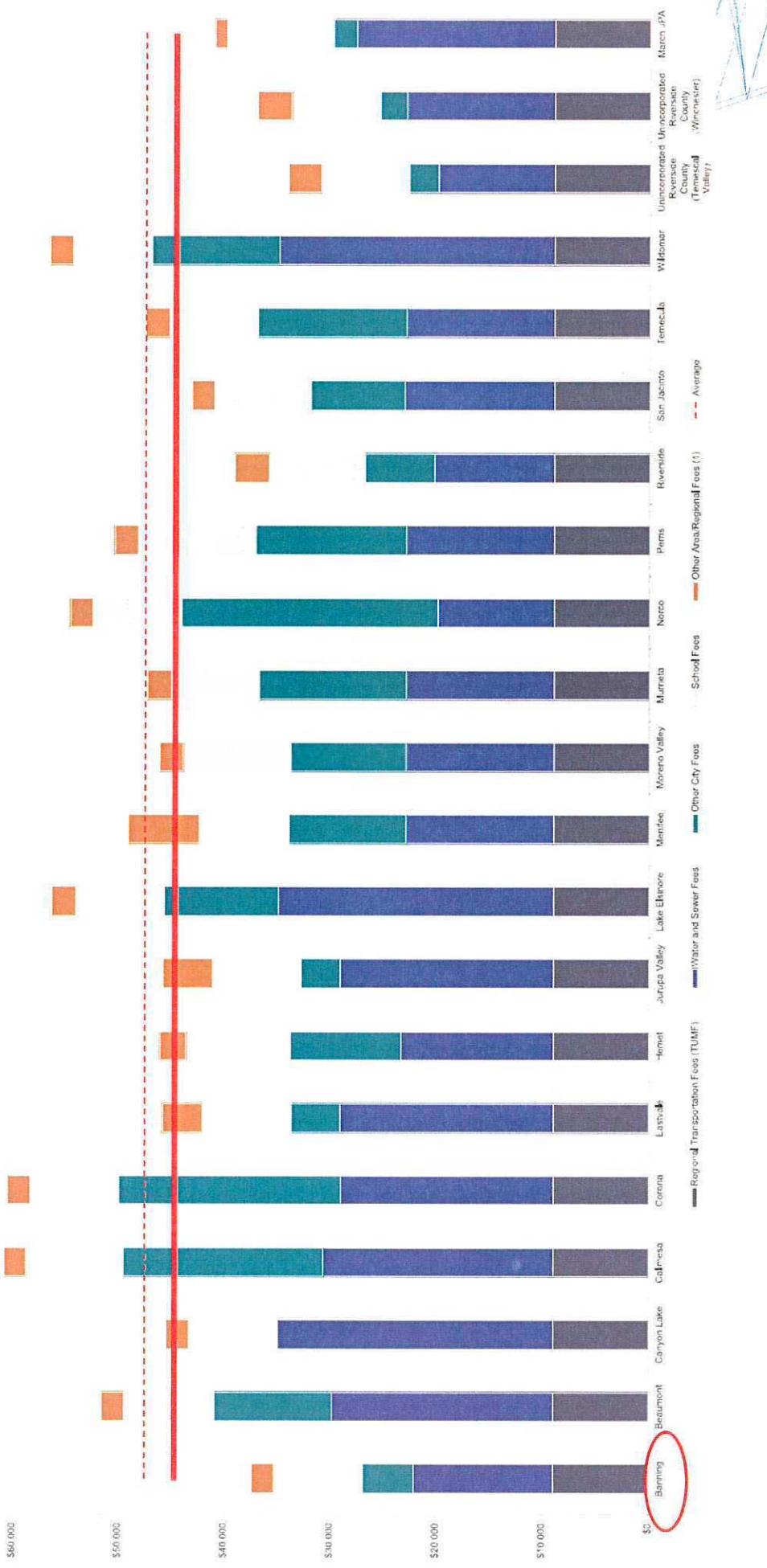
Fee Category	Residential (Existing DIF)	Residential (Proposed DIF)	Change
Police Facilities	\$823	\$1,200	\$377
Fire Protection Facilities	\$1,335	\$746	-\$589
Parkland and Parks	\$1,955	\$3,840	\$1,885
General City Facilities	\$478	\$521	\$43
Wastewater Facilities	\$2,786	\$5,061	\$2,275
Water Facilities	\$7,232	\$9,744	\$2,512
Traffic Facilities	\$250	\$3,410	\$3,160
Total	\$14,859	\$24,522	\$9,663

CITY OF BANNING DIFS COMPARED

Fee	Single Family (per Unit)	Multifamily (per Unit)	Industrial (per Sq.Ft.)	Retail (per Sq.Ft.)	Office (per Sq.Ft.)
Regional Transportation Fees (TUMF)	\$8,873	\$6,134	\$1.45	\$7.50	\$2.19
Water and Sewer Fees	\$17,070	\$9,636	\$1.04	\$9.84	\$7.34
Other City Fees	\$10,055	\$7,231	\$1.65	\$4.75	\$3.39
School Fees	\$8,785	\$5,191	\$0.59	\$0.59	\$0.59
Other Area/Regional Fees	\$2,686	\$1,512	\$0.45	\$0.95	\$0.54
Total Fees	\$47,470	\$29,706	\$5.19	\$23.63	\$14.06

**TOTAL ESTIMATED PERMIT FEES IN
BANNING WITH UPDATED DIF FOR SFD =
\$44,132**

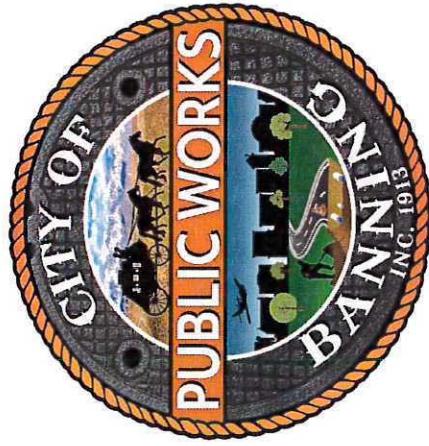
CITY OF BANNING DIFS COMPARED



RECOMMENDATIONS

○ Adopt Resolution 2019-112

- Approving the Development Impact Fee Update Study Dated August 7, 2019
- Approving the Update of [the] Traffic Fee Component of the Development Impact Fee Program Dated May 2019
- Adopting New and Amended Development Impact Fees
- Making a Finding of Exemption under CEQA
- Repealing Provisions of Resolution No. 2006-75 and Ordinance Nos. 1320 and 1321 Establishing or Modifying Certain Development Impact Fees
- Waive further reading, and introduce as read by title only, Ordinance 1551, An Ordinance of the City of Banning California, Updating the City's Development Impact Fee Program, Amending the Banning Municipal Code, and Making Findings Pursuant to CEQA



THANK YOU!

