

AGENDA
REGULAR MEETING OF THE BANNING CITY COUNCIL
CITY OF BANNING
BANNING, CALIFORNIA

December 10, 2019
5:00 p.m.

Banning Civic Center
Council Chamber
99 E. Ramsey Street

The following information comprises the agenda for the regular meeting of the Banning City Council, a joint meeting of the City Council and the Banning Utility Authority, and the Banning City Council sitting in its capacity of the Successor Agency Board.

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

I. CALL TO ORDER

- Invocation – Merle Malland, Police Chaplain
- Pledge of Allegiance
- Roll Call – Councilmembers Andrade, Happe, Peterson, Wallace, and Mayor Welch

II. REORGANIZATION OF CITY COUNCIL

1. City Council Reorganization 1

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

III. AGENDA APPROVAL

IV. PRESENTATION(S)

None

V. REPORT ON CLOSED SESSION

City Attorney

VI. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

PUBLIC COMMENTS – On Items Not on the Agenda

A five (5) minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. Usually, any items received under this heading are referred to staff for future study, research, completion and/or future Council Action (see last page). PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

CORRESPONDENCE

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

APPOINTMENTS

1. Parks & Recreation Commissioner Appointment 3

Recommendation: Fill a vacancy on the Parks & Recreation Commission by appointing one of two applicants.

VII. CONSENT ITEMS

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

Mayor to Open Consent Items for Public Comments

Motion: Approve Consent items 1 - 25: Items __, __, __ to be pulled for discussion.

(Resolutions require a recorded majority vote of the total membership of the City Council/Banning Utility Authority)

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2. Minutes – November 12, 2019, Special Meeting (Workshop) 9
3. Minutes – November 12, 2019, Regular Meeting 35
4. Approval and Ratification of Accounts Payable and Payroll Warrants – October 2019 63
5. Investment Report – October 2019 65
6. Police Stats – October 2019 67
7. Fire Stats – October 2019 69
8. Resolutions 2019-128, 2019-02 SA, and 2019-21 UA, Continuing Appropriations 71
9. Resolution 2019-132, Adopting Banning Electric Utility Wildfire Mitigation Plan Version 1.0 75

10.	Resolution 2019-147, Authorizing the Electric Utility to Amend the Professional Services Agreement with Acculine Consulting for the Pilot Mapping Project.....	81
11.	Resolution 2019-148, Establishing a Pre-Qualified Professional Electrical Engineering Vendor List for the Remainder of Fiscal Year 2020 through Fiscal Year 2022	83
12.	Notice of Completion, Project 2019-02, "Bird Abatement, Clean-Up and Netting Services"	87
13.	Resolution 2019-149, Approving Tract Map 35967-1	89
14.	Resolution 2019-150, Approving Tract Map 37298.....	93
15.	Resolution 2019-151, Approving Tract Map 37298-1	97
16.	Resolution 2019-152, Approving Tract Map 37298-2	101
17.	Resolution 2019-153, Approving Tract Map 37298-3	105
18.	Resolution 2019-154, Approving Tract Map 37474.....	109
19.	Resolution 2019-155, Approving Tract Map 37365.....	113
20.	Resolution 2019-156, Approving the Equipping of Police Department Vehicles.....	117
21.	Resolution 2019-157, Approving the Purchase of a Code Compliance Vehicle	119
22.	Resolution 2019-158, Acknowledging Receipt of a Report Made by the Fire Chief of the Riverside County Fire Department Regarding Compliance with the Annual Inspection of Certain Occupancies Pursuant to Sections 13146.2 and 13146.3 of the California Health and Safety Code.....	121
23.	Resolution 2019-25 UA, Approving the Purchase of an Emergency Standby Generator for the Westward Lift Station from Quinn Power Systems in Riverside, California, in the Amount of \$55,095.06.....	123
24.	Resolution 2019-26 UA, Approving Change Order 1 to the Contract with Hemet Manufacturing Co., Inc. dba Genesis Construction for the Altitude Valve at Southwest Reservoir Project in the amount of \$35,426	127
25.	Resolution 2019-146, Adopting Banning Electric Utility Rules and Regulations Rule Number 30, Designating the City as Being in Climate Zone 10 for the Purposes of Tariff Baselines, Energy Efficiency Standards, Weatherization, Solar Requirements, and Electric-Related Building Standards	131

VIII. PUBLIC HEARING(S):

1. Ordinance 1552, Zoning Text Amendment 19-97503, Approving Zoning Text Amendment 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..... 133

(Staff Report: Adam Rush, Community Development Director)

Recommendation: 1) Make a determination under CEQA Guidelines Section 15060(c)(3) that the Zoning Text Amendment is not subject to CEQA because the amendments are not a "project" as defined by the CEQA Guidelines Section 15378. 2) Introduce, as read by title only, Ordinance 1552.

Mayor asks the City Clerk to read the title of Ordinance 1552

"Ordinance 1552, an Ordinance of the City Council of the City of Banning, California, Approving Zoning Text Amendment 19-97503, Amending Section 17.108.020 ("Permitted Uses") of Chapter 17.108 Amending Table 17.080.020 of Section 17.080.020 ("Permitted, Conditional and Prohibited Uses") of Chapter 17.08 ("Residential Districts"), Amending Table 17.12.020 ("Permitted, Conditional and Prohibited Commercial and Industrial Uses") of Section 17.12.020 ("Permitted, Conditional and Prohibited Uses") of Chapter 17.12 ("Commercial and Industrial Districts"), and Adding a New Section 17.24.180 ("Commercial Cargo/Storage Containers") to Chapter 17.24 ("General Standards") of Title 17 ("Zoning") of the Banning Municipal Code to Establish Zoning and Design Standards for Commercial Cargo/Storage Containers, and Making a Determination of Exemption Under CEQA Guidelines Section 15060(c)(3)."

(First reading and Introduction).

Motion: I move to waive further reading of Ordinance 1552
(Requires a majority vote of the Council)

Motion: I move that Ordinance 1552 pass its first reading

2. Resolution 2019-133, Approving the Comprehensive User Fee Study Report and Adopting an Updated Master Fee Schedule and Adopting an Updated Master User Fee Schedule and 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, and Making Findings Pursuant to CEQA 139
(Staff Report: Adam Rush, Community Development Director)

Recommendation: 1) Adopt Resolution 2019-133, 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; and making a finding for Exemption under CEQA. 2) Waive further reading and introduce Ordinance 1553, amending Chapter 3.36 "Fee and Service Charge Revenue/Cost Comparison" of the Banning Municipal Code, and making findings pursuant to CEQA.

Mayor asks the City Clerk to read the title of Ordinance 1553

"Ordinance 1553, An Ordinance of the City Council of the City of Banning, California, Amending Chapter 3.36 'Fee and Service Charge Revenue/Cost Comparison' of the Banning Municipal Code ("Code Amendment") and Making Findings Pursuant to CEQA." (First reading and Introduction).

Motion: **I move to waive further reading of Ordinance 1553**
(Requires a majority vote of the Council)

Motion: **I move that Ordinance 1553 pass its first reading**

3. Ordinance 1555, an Ordinance Amending Chapters 15.08 and 8.16 of the Banning Municipal Code by Adopting by Reference the Entirety of the 2019 Editions of the California Building Code, Residential Code, Green Building Standards Code, Plumbing Code, Mechanical Code, Electrical Code, and Fire Code, the 2018 Edition of the International Property Maintenance Code, and the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, Together with Certain Amendments, Deletions and Additions, Including Findings, Fees and Penalties; Deleting Chapter 15.20 of the Banning Municipal Code Concerning Wind Speed Requirements; Amending Chapter 15.40 of the Banning Municipal Code Concerning Pool Fencing and Enclosure Standards; and Making Certain Clarifying Revisions to the Building and Construction Provisions within Title 15 of the Banning Municipal Code 145
(Staff Report: Adam Rush, Community Development Director)

Recommendation: 1) Adopt the Notice of Exemption (NOE) which determines that Ordinance 1555 is not subject to CEQA, pursuant to Section 15060(c)(3) of the California Environmental Quality Act (CEQA; and 2) Conduct a public hearing on Ordinance 1555 and at the close of public hearing, adopt Ordinance 1555 amending Title 8 and 15 in its entirety and replacing it with language adopting the 2019 California Building Standards Code as amended.

4. Resolution 2019-164 approving General Plan Amendment 19-2503 and Ordinance 1557 adopting Zone Change 19-3501, a proposed amendment to the General Plan Land Use Element to update the General Plan Land Use Map and Zoning map to eliminate inconsistencies within the map and promote economic development, finding the project will have a less than significant effect on the environment approving a Negative Declaration..... 149
(Staff Report: Adam Rush, Community Development Director)

Recommendation: 1) Adopt Resolution 2019-164, approving General Plan Amendment 19-2503 and Environmental Assessment 19-1505 adopting a Negative Declaration finding the project will have a less than significant effect on the environment and making findings in support thereof. 2) Adopt for the first reading Ordinance 1557 approving Zone Change 19-3501.

Mayor asks the City Clerk to read the title of Ordinance 1557

"Ordinance 1557, an Ordinance of the City Council of the City of Banning, California, approving Zone Change 19-3501 to Amend the Zoning Classification for Multiple Properties Located Within Seven (Locations 1, 2, 3, 4, 6, 7, 9) of the Original Nine Proposed Locations Throughout the City (APN'S 532-130-008, 541-260-033, -035, -041, -042, -044, -047, 534-171-008, -009, 532-160-005, -007, -008, -009, -013, -014, 540-250-060, 540-250-034, -045, AND 534-152-025), and Making Findings Pursuant to CEQA

(First reading and Introduction).

Motion: **I move to waive further reading of Ordinance 1557**
(Requires a majority vote of the Council)

Motion: **I move that Ordinance 1557 pass its first reading**

IX. ANNOUNCEMENTS AND REPORTS:

CITY COUNCIL COMMITTEE REPORTS

REPORT BY CITY ATTORNEY

REPORT BY CITY MANAGER

REPORTS OF OFFICERS

1. Resolutions of Necessity 2019-159, 2019-160, 2019-161, 2019-162, and 2019-163, for the Acquisition by Eminent Domain of Certain Real Property Interests Necessary for Public Purposes in Connection with the City's Ramsey/Hathaway Street Improvement Project 173
(Staff Report: Ted Shove, Economic Development Manager)

Recommendation: Adopt Resolutions 2019-159, 2019-160, 2019-161, 2019-162, and 2019-163, declaring certain real property interests necessary for public purposes and authorizing the acquisition thereof in connection with the City's Ramsey/Hathaway Street Improvement Project.

X. DISCUSSION ITEM

None

XI. ITEMS FOR FUTURE AGENDAS

New Items:

Pending Items:

1. Mills Act Update
2. Fee Suspension Update
3. Website Redesign
4. Street Naming Policy to Honor Land Owners
5. Contingency Plan for Residents During Emergencies
6. Appraisals Update
7. Honor Banning High School Senior Aliyah Amis
8. Wildfire Mitigation Plans
9. 553 E. Ramsey Receivership

XII. ADJOURNMENT

Next Meeting January 14, 2019 at 5:00 P.M.

NOTICE: Any member of the public may address this meeting of the Mayor and City Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951)-922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Sonja De La Fuente, Deputy City Clerk
MEETING DATE: December 10, 2019
SUBJECT: City Council Reorganization

RECOMMENDATION:

That the City Council choose one of its members as Mayor and another of its members as Mayor Pro Tem to serve for a period of one year.

BACKGROUND:

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

FISCAL IMPACT:

None

ATTACHMENTS:

1. Format for Election of Mayor
<https://banningca.gov/DocumentCenter/View/6679/Att-1-Format---Election-of-Mayor>
2. Format for Election of Mayor Pro Tem
<https://banningca.gov/DocumentCenter/View/6680/Att-2-Format---Election-of-Mayor-Pro-Tem>
3. Banning Municipal Code Chapter 2.04.070
<https://banningca.gov/DocumentCenter/View/6681/Att-3-Municipal-Code---Appointment-of-Mayor-and-Mayor-Pro-Tem>

Approved by:

A handwritten signature in blue ink, appearing to read "DS".

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Sonja De La Fuente, Deputy City Clerk**

MEETING DATE: **December 10, 2019**

SUBJECT: **Parks & Recreation Commissioner Appointment**

RECOMMENDATION:

Discuss and consider selecting a candidate to fill a vacated position on the Parks & Recreation Commission.

BACKGROUND:

The Parks & Recreation Commission (“Commission”) consists of five (5) members appointed by the City Council. The Commissioners each serve a four-year term, which is intended to stagger every two (2) years concurrent with the City’s elections. Due to the recent resignation of Commissioner Jasso, an unfilled position exists; this position will expire in February of 2021, along with one other position.

Government Code 54974 requires that the vacancy be posted for a minimum of ten days. The vacancy was advertised on the City’s website starting October 22, 2019, and application forms were made available at the City Hall counter and in the City Council Chamber. Information posted on the City’s social media as well. A public notice was published in the Record Gazette on October 25, 2019, and the final date to submit an application was Friday, November 21, 2019 at 5:00 P.M.

The Deputy City Clerk received two (2) applications from the following candidates: Juanita Diaz and Dorance Creighton, Jr.

The Commission’s rules and responsibilities are governed by Chapter 2.40 of the Municipal Code. The Commission’s main purpose is to facilitate and integrate parks and recreation activities for the City.

OPTIONS:

1. Appoint one of the two applicants in accordance with section 2.40.030 of the Banning Municipal Code; or,
2. Reject both applications and direct the Deputy City Clerk to re-advertise the vacancy.

ATTACHMENTS:

1. Parks & Recreation Commission Applications (2)
<https://banningca.gov/DocumentCenter/View/6676/Att-1--Applications>
2. Public Notice Proof of Publication
<https://banningca.gov/DocumentCenter/View/6677/Att-2---Proof-of-Publication-of-Notice>
3. Chapter 2.40 of the Banning Municipal Code
<https://banningca.gov/DocumentCenter/View/6678/Att-3---Chapter-240---PARKS-AND-RECREATION-COMMISSION>

Approved by:



Douglas Schulze, City Manager

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
BANNING, CALIFORNIA

11/12/2019

SPECIAL MEETING - CLOSED SESSION

COUNCIL/BOARD MEMBERS PRESENT: Councilmember Happe
Councilmember Peterson
Councilmember Wallace
Mayor Pro Tem Andrade
Mayor Welch

COUNCIL/BOARD MEMBERS ABSENT: None

OTHERS PRESENT: Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney
Sonja De La Fuente, Deputy City Clerk
Art Vela, Public Works Director/City Engineer
Tom Miller, Electric Utility Director
Ted Shove Economic Development Manager
Jason Smith, Electric Operations Manager
Brandon Robinson, Electrical Engineering Supervisor
Mike Steen, Senior Electric Service Planner

I. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Welch on November 12, 2019, at 3:01 P.M. at the Banning City Council Chamber, 99 E. Ramsey Street, Banning, California.

II. CLOSED SESSION

Mayor Welch opened the closed session items for public comments. There were none. The City Attorney listed the items on the closed session Agenda as follows:

- 1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: The City of Banning, et al. v. Cali Emerald Care, Inc., et al., Case No. RIC 1904157

- 2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: James Arthur Algea II and Cali Emerald Care, Inc. v. City of Banning, Case No. RIC 1903009

3. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Cases: Sierra Club v. City of Banning, Case No. RIC 1900544, and Golden State Environmental Justice Alliance v. City of Banning; Case No. RIC 1900654 (Banning Distribution Center Project)
4. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: Supporters Alliance for Environmental Responsibility (SAFER) v. City of Banning, et al. (Lawrence Equipment Project), Case No. RIC 1903059
5. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant Exposure to Litigation pursuant to paragraph (2) subdivision (d) of Section 54956.9 (one case)
6. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Properties and Owners/Negotiating Parties: Real Property located in the vicinity of Ramsey and Hathaway – 1909 E. Ramsey Street, 2933 E. Ramsey Street, APN 532-120-011 – Ramirez Family Living Trust; 1933 E. Ramsey Street, APN: 532-120-012 – Liang; 1679 E. Ramsey Street, APN 532-120-019 – Tierra Firma Enterprise, LLC; Northeast corner of Ramsey Street and North Hathaway Street, APN 532-120-020 – Frank J. Burgess and Lorna D. Burgess, Trustees; Southeast corner of Ramsey Street and Hathaway Street, APN 532-140-005 – Frank Burgess; 1483 E. Ramsey St, APN 541- 170-019 – Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust; 1573 E. Ramsey St, APN 541-170-021 – Jen H. Huang
City Negotiators: Douglas Schulze, City Manager and Ted Shove, Economic Development Manager
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements
7. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property Description: Real Property located in the vicinity of S. 22nd Street and W. Lincoln Street (APN 538-230-011)
City Negotiator: Ted Shove, Economic Development Manager
Negotiating Parties: Debra Hanna/Jade Real Estate
Under Negotiation: Price and Terms

8. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8

Property Description: Real Property located in the vicinity of W. Nicolet Street and N. 2nd Street (APN 540-083-002 and 540-083-003)

City Negotiator: Tom Miller, Electric Utility Director and Jason Smith, Electric Operations Manager

Negotiating Parties: Our Blessed Saint Kateri Takawitha

Under Negotiation: Price and Terms

The meeting convened to closed session at 3:06 p.m. and reconvened to open session at 3:58 p.m.

III. ADJOURNMENT

By consensus, the meeting adjourned at 3:58 p.m.

Minutes Prepared by:

Sonja De La Fuente, Deputy City Clerk

The entire discussion of this meeting may be viewed by visiting
<https://banninglive.viebit.com/player.php?hash=xr7XdpRXiYoN> and related
documents can be found by visiting
<http://www.banningca.gov/ArchiveCenter/ViewFile/Item/2193> or by requesting a
CD or DVD at Banning City Hall located at 99 E. Ramsey Street.

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In accordance with City Council Resolution No. 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
BANNING, CALIFORNIA

11/12/2019
SPECIAL MEETING - WORKSHOP

COUNCIL/BOARD MEMBERS PRESENT: Councilmember Happe
Councilmember Peterson
Councilmember Wallace
Mayor Pro Tem Andrade
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney
Marie Calderon, City Clerk
Sonja De La Fuente, Deputy City Clerk
Art Vela, Director of Public Works/City Engineer
Adam Rush, Community Development Director
Tom Miller, Electric Utility Director
Jim Steffens, Power Resource & Revenue Administrator
Carla Young, Business Support Manager

I. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Welch on November 12, 2019 at 4:05 P.M. at the Banning City Council Chamber, 99 E. Ramsey Street, Banning, California.

II. WORKSHOP

1. New Energy North America

City Manager Doug Schulze introduced a proposal for public/private partnership with New Energy North America (Attachment 1) and expressed

Marion Ashley, Governmental Relations for New Energy North America, thanked the Council for their consideration of New Energy's proposal and introduced Paul Towsley.

Paul Towsley, Investor Relations for New Energy, provided a brief explanation of New Energy North America's services and introduced members of their team, including the following:

Del Allison, Hanwha Energy
Mark Tucker, Enel
Bill Currier, Governmental Relations, New Energy
James Holtz, BYD
Gary Armantrout, President/CEO, New Energy
Marion Ashley, Vice President Governmental Affairs, New Energy

Mr. Towsley introduced Del Allison with Hanwha who provided the Council with a presentation (Attachment 2) regarding New Energy North America's proposal.

James Holtz with BYD invited the Council and public to take a tour of the bus he brought down after the workshop.

Members of the City Council asked questions and clarification regarding the public/private partnership proposal. Mr. Towsley and other members of the New Energy team answered questions and provided clarification as needed.

City Attorney Ennis explained public/private partnerships from a legal standpoint.

There was a consensus of the Council for New Energy North America to put together a detailed proposal for consideration.

III. PUBLIC COMMENTS

None

IV. ADJOURNMENT

By consensus, the meeting adjourned at 5:05 p.m.

Minutes Prepared by:

Sonja De La Fuente, Deputy City Clerk

The entire discussion of this meeting may be viewed here:
<https://banninglive.viebit.com/player.php?hash=4rtIAmUEePRk> and related documents can be viewed here:
<http://www.banningca.gov/ArchiveCenter/ViewFile/Item/2192>
or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.

ATTACHMENT 1

(Proposal)

New Energy North America

The City of Banning Proposal

Who We Are:

New Energy North America, LLC is an umbrella company that has brought together the best-in-class leading entities in the world in renewable energy generation, storage, distribution, finance and Net Zero energy conservation to work in collaboration to be able to provide the City of Banning with an all-encompassing solution to its renewable energy requirements in a very cost effective way. These companies are:

Hanwha Energy - The largest producer of solar cells/panels in the world with a 1.6 GW manufacturing facility in the United States. Has a solid balance sheet with over \$155 Billion in assets. It has a proven track record of developing successful renewable energy generation projects in the United States.

Enel X – A multinational power company with facilities in 31 countries on 5 continents, Enel X is a leading integrated player in the renewable energy field. Enel X has over 50 years of energy utility experience, earns over \$84 Billion in annual revenues, generates over 42 GW of renewable power and has over 65,000 employees worldwide.

Sensus – As a subsidiary of the \$5 Billion in annual revenue Xylem Corporation, Sensus is a leading company in the energy monitoring and management business. Sensus operates on 6 continents, with over 14,000 customers, in over 2,000 communities providing over 80 million meters. Its “FlexNet” system remotely monitors gas, electric, water meters and streetlights to provide analysis and reporting for energy efficiency, safety and cost savings.

BYD Company – A leading provider of advanced battery storage technologies for over 23 years. BYD has facilities in over 33 locations worldwide, over 240,000 employees and earned over \$16 Billion in 2017. In addition to manufacturing battery storage, the BYD Motor division is a leading manufacturer of electric vehicles having delivered over 45,000 electric buses and over 2,000 electric trucks to its many customers. Its electric truck and bus manufacturing facility is located in Lancaster, California.

AT&T – The foremost U. S. communication company. In addition to its many more recognized businesses, AT&T is driving “Smart City” initiatives across the U.S. through its LED lighting technology, advanced lighting controls, energy metering, environmental sensors, traffic control systems, 5G internet and integrated communication infrastructure.

Zeem – A leading company in the conversion of gas and diesel trucks and buses into electrically powered vehicles. Zeem is responsible for nearly 40% of the commercial electric trucks operating in the U.S. today. Zeem has a conversion facility in Moreno Valley, California.

Big Sky Electric – EPC, solar and battery installer based in Riverside, California. Big Sky will employ local union electricians and tradesmen and will source supplies from local vendors. Big Sky has a proven track record of completing large, successful electrical projects on time and on budget in California.

Brummitt Energy Associates - Founded in 1998 by Beth Brummitt, and based in San Diego, the firm's mission is to help clients benefit from the financial and health benefits of high-performance Zero Net Energy buildings that combine intelligent efficiency with renewable energy. It is from Beth's total dedication to helping cities and companies reduce their carbon footprints that Brummitt Energy Associates now employs the industry's leading building performance experts to fulfill the company's vision.

Lockton Insurance – Large commercial and industrial insurance provider currently working in the renewable energy space who will provide performance guarantees and back-stop the manufacturer's warranties to eliminate the City of Banning's future risk in entering into a PPP and PPA.

Why We Are Here:

New Energy North America, through its partner companies, has the expertise and financial resources to provide a comprehensive solution to the challenges facing the City of Banning in providing renewable energy to its facilities:

- a)** to meet State of California imposed mandates;
- b)** to reduce its current energy costs;
- c)** to provide protection from ever continuing utility electricity rate increases;
- d)** to meet the increasing public citizens' demand for green energy solutions
- e)** to do so despite the limited availability of City funding to meet these challenges.

Necessary Steps:

Initial Presentation – New Energy North America made a presentation to representatives of the City of Banning on August 13, 2019.

Information Gathering – The City of Banning has scheduled a Workshop for November 12, 2019 to begin the process of information gathering, to obtain its consumption data and energy load profile and New Energy will begin assembling that data. Additional information and site visits will still be required.

Letter of Intent – In consideration of the time, cost and effort that New Energy is putting into the analysis and preparation of a comprehensive renewable energy Proposal at no cost to the City of Banning, New Energy requests the City of Banning to execute a letter of Intent to give New Energy a reasonable period of exclusivity to complete its analysis and prepare a definitive proposal.

Analysis – New Energy's technical experts and engineers will begin analyzing the energy consumption data in order to determine where cost savings could be achieved, where revenue could be generated, and where energy efficiencies could be obtained in order to financially model what energy solutions New Energy can cost effectively provide.

Formal Presentation – New Energy will make a formal presentation to the City of Banning City Council and deliver a definitive Proposal providing in detail what facilities, programs and funding New Energy is able to provide and what the City of Banning's obligations would be going forward.

PPP and PPA Negotiation – Based on the Proposal, the language of a final draft of the PPP and PPA would be negotiated by the party's representatives.

Approval – The City Council of Banning would conduct a final vote to approve the Proposal and enter into the PPP and PPA with New Energy North America and construction of the renewable energy facilities would begin.

What We Will Propose:

Subject to New Energy's completion of its final analysis of the City of Banning's current energy consumption profile and financial pro forma, New Energy North America's proposal to the City of Banning may include some or all of the following renewable energy components to be implemented in phases:

Solar Panel Energy Generation – State-of-the-art Hanwha Q CELLS made in America solar panels to be installed by New Energy on City provided sites at ground level and on City owned building rooftops. It may also include the installation of solar panels on parking structure canopies where advantageous to do so.

Battery Storage – Behind the meter state-of-the-art battery storage manufactured by BYD Company and located on City provided sites.

Electric Vehicles – The conversion by Zeem of existing City fleet vehicles from natural gas or diesel to an electrically driven powertrain where possible. Where not possible, the providing of new electrically powered trucks, side loaders and busses by BYD Company. It may also include providing small Chevy Bolt size passenger cars to the City fleet.

EV Charging Stations – Up to two hundred and fifty electric vehicle charging station to be located on City sites to charge City owned electric vehicles and available to the public for the charging of their own private electric vehicles for a fee. These charging stations can provide an additional source of revenue to the City.

Street Lighting – Conversion of a large portion of the City of Banning’s streetlights to smart LED streetlights that can deliver an estimated 50% to 70% energy savings over existing HID technology while at the same time providing better uniformity on the roadway and pedestrian areas, reducing up light and light pollution.

Energy Management System – “Smart City” energy management infrastructure by AT&T and Sensus to monitor and control the City’s energy generation and consumption to maximize efficiency and reduce cost.

Additional Revenue Source:

New Energy North America proposes to joint venture with the City of Banning to sell surplus electricity generated by its solar panels to commercial and industrial customers, home builders to meet their zero energy mandates, and private customers to fuel their electric powered vehicles at charging stations located throughout the City. For example, the City of Banning would be paid a fixed royalty for electricity sold by the joint venture to non-City customers or on to the grid, thus providing an additional source of revenue to the City of Banning.

Funding:

New Energy North America has already secured third-party financing to be able fund all of the solar, battery, streetlighting, electric vehicles and energy management systems that will be proposed to the City of Banning. That means that the City of Banning will not have to tap into its limited financial resources, increase taxes or find other means to fund the renewable energy mandates that are being imposed on it by the State of California. The City also will be able to capture all of its own cost savings that the renewable energy sources generate.

Time is of the Essence:

The current economics of renewable energy generation are highly sensitive to the amount of tax credits, incentives and grants that may be available to reduce costs. The amount of Federal ITC tax credits will be reduced starting next year and certain other grants and incentives that make renewable energy cost effective are at risk of being exhausted soon. The extent to which these tax credits, incentives and grants are reduced or lost will only serve to increase the eventual cost of the renewable power and reduce the cost savings to the City. This means that time is of the essence for the City of Banning to move forward on renewable energy initiatives.

PPP vs RFP:

A negotiated Public Private Partnership (PPP) offers many advantages over a cumbersome Request For Proposal (RFP) process as the most efficient method for the City of Banning to obtain the benefits of a comprehensive, state-of-the-art solution to its energy needs.

The two most compelling reasons to go the direct negotiated PPP route are:

1. **Cost Savings** – the RFP process requires the City to utilize its limited resources up front in an effort to identify the full scope of the problem and evaluate all of the differing

proposals. In addition, it may not have in-house resources with the requisite expertise and be forced to contract the RFP process to outside consultants.

2. **Saves Time** – the RFP process is very lengthy and time consuming. It requires the City to attempt to identify all of its energy issues, then draft a solicitation document, then research to find potential respondents, then issue the RFP, then wait for potential respondents to analyze and respond, then evaluate the responses, then negotiate a contract with a selected vendor. This lost time is particularly detrimental when the agency or local government is facing short term energy mandates and the expiration of energy incentives, and the loss of grants and subsidies.

In addition, the RFP process:

3. May not be complete or produce an all-encompassing solution.
4. May stifle innovation and unconventional approaches.
5. Is ill suited to newly emerging technologies.
6. Produces only rigid and often siloed solutions to problems.
7. Is too formal a process that does not encourage relationship building between the parties that facilitates a true understanding of the problems and potential solutions.

Fortunately, the California Legislature has recognized the drawbacks of the RFP process in the context of seeking new and innovative solutions to a city's energy problems by enacting **Government Code Section 4217.10 – 4217.18** permitting governmental entities to enter into negotiated Public Private Partnerships directly without requiring an RFP process.

The law provides that:

1. A public agency or local government may enter into an energy service contract and related ground lease if it determines that it is in the best interest of the public at a regularly scheduled hearing with at least two weeks' notice, and
2. A public agency or local government may lease property to an energy provider at a below fair rental value if the agreed rent is anticipated to be offset by below-market energy purchases.

PPP:

The Public Private Partnership Agreement documents the joint venture relationship between the City of Banning and New Energy North America, clearly spelling out each party's duties and obligations going forward. For the City of Banning's part, it will agree to provide City owned/controlled sites, both ground level and rooftop, for the installation of the solar panels under a lease arrangement with New Energy North America for a nominal rental fee for the term of the PPP. The City of Banning will agree at its cost to facilitate and fast-track the building permit and other regulatory approvals required; obtain any interconnection and environmental

approvals required to provide a “shovel-ready” site in order to speed up the installation process for all renewable energy components.

For its part, New Energy North America will agree to provide its expertise to design, provide and install and maintain all of the renewable energy components on the City sites at no cost to the City of Banning for the term of the PPP. New Energy will be responsible for arranging the financing to fund the renewable energy components and will own those components. Ownership of the components will be conveyed to the City at the end of the PPP.

PPA:

The Power Purchase Agreement documents the terms and conditions by which the City of Banning agrees to purchase from the joint venture the electric energy that it generates and stores for consumption by the City. The cost of the energy to the City will be specified on a price per kilowatt hour basis and contain an escalation provision based on a discount from the prevailing utility rates. It also will set out the terms and conditions for the sale of the surplus electric energy generated and stored by the joint venture to third parties thereby creating an additional source of revenue for the City. For example, a royalty paid to the City on power sold through EV charging stations to private citizens.

The PPA will specify New Energy's maintenance and equipment replacement obligations on the renewable energy components and provide for insurance coverage in favor of the City to guarantee performance and protection from liability. The term of the PPA will be thirty (30) years.

Respectfully Submitted

New Energy North America, LLC

ATTACHMENT 2

(Presentation)



*City of Banning
Workshop and Discussion*

*New Energy North America, LLC
October 22, 2019*

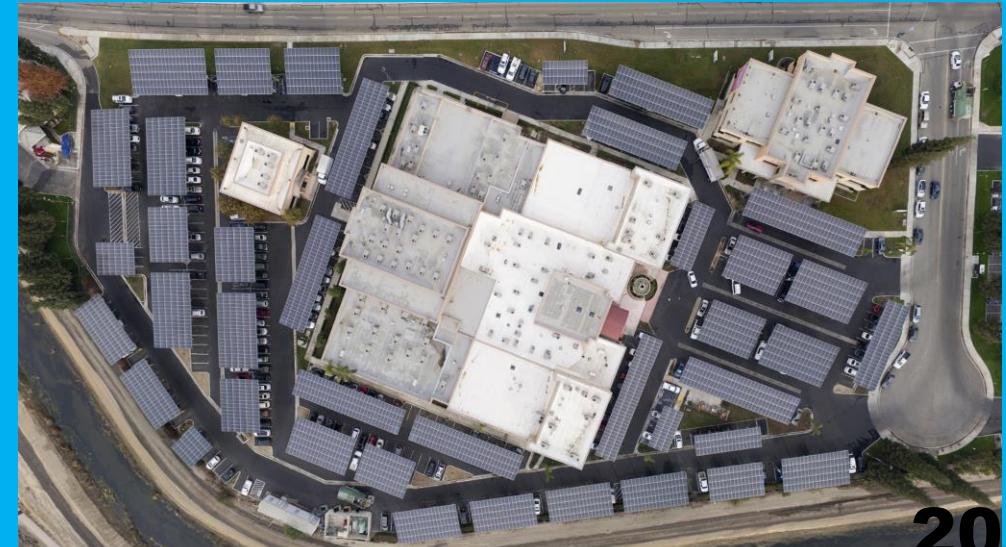
OUR GOALS



- **Maximize and Monetize non-revenue generating land and under-performing existing resources while providing Compliance to California Energy Mandates**
- **Provide Year-over-Year Growing Revenue Streams**
- **Minimize electrical energy costs with no start up costs**



Health Care Facility – Bakersfield, CA (1.3 Megawatt Solar Carport)



OUR GOALS

- **Establish a Public Private Partnership and Joint Venture**

New Energy will:

- Provide all the assets
- Money and Financing
- Engineering and Energy Modeling
- Solar Panels
- Car Ports
- Safe and Reliable Battery Storage
- Opportunity to participate in the emerging “any source” resale program

- **Deliver Comprehensive Program enabling JV to benefit from California mandated renewables, resiliency and fleet electrification requirements**

- **Complete E-mobility Solutions:**

- EV Bus, Truck and Auto Recharging stations
- Next Gen Hydrogen Charging

- **Net Zero Energy Solutions**

Jobs - Using as much local labor content to create jobs and infuse capital into the local economy



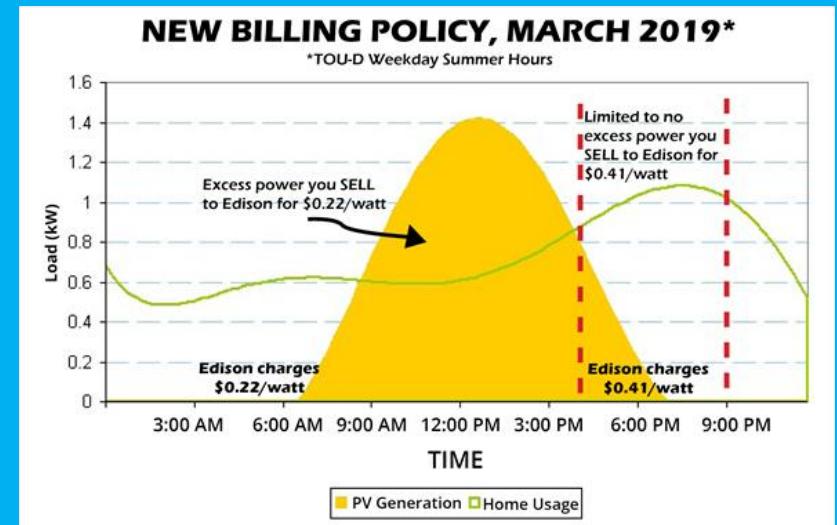
After installation | Train Station (2.5-Megawatt Solar Carport)



Future of Supply One of the Greatest Energy Challenges

Uncertain Future of Supply and Impact on Future Rate Pricing -

- Example: SCE facing a >\$1B short fall in its power budget.
- Massive lawsuits filed as a result of the Thomas fire, the 2nd largest in California history, PG&E Rolling Black outs
- Natural Gas Futures – Long term energy availability and are the spot market suppliers oversold?
- Meeting the Power and Energy requirements as demand grows at an unprecedented rate along with impact of EV Programs and Rebates on the Grid
- **SOLUTION** - New Energy through a proven **Public Private Partnership OR Joint Venture** ensures electricity cost is the lowest possible and at a predictable rate **using Solar and Storage** both in front of the meter and behind the meter and sustainable secondary charging solutions

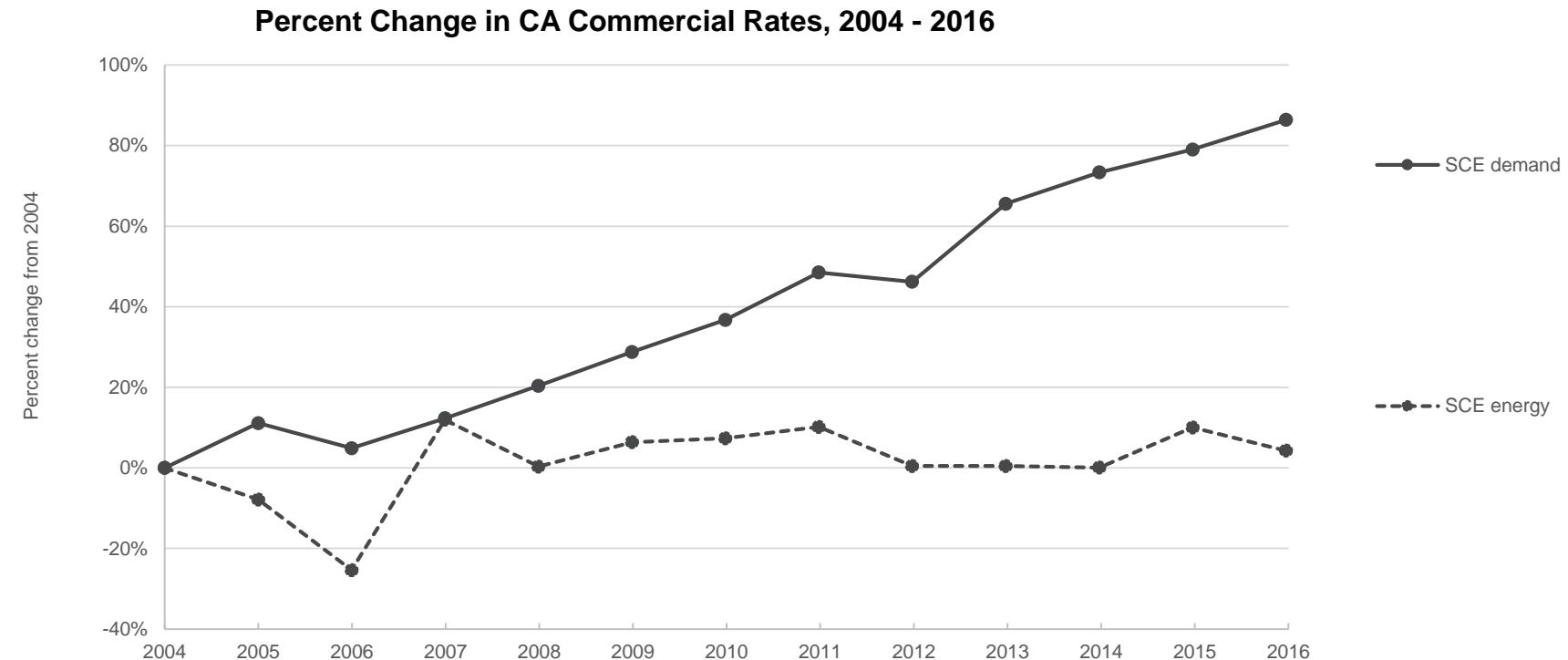


SCI TOU Rate Periods Will Cut Benefit of Solar by Up to 50%



Eliminate the Massive exposure to rising Demand costs

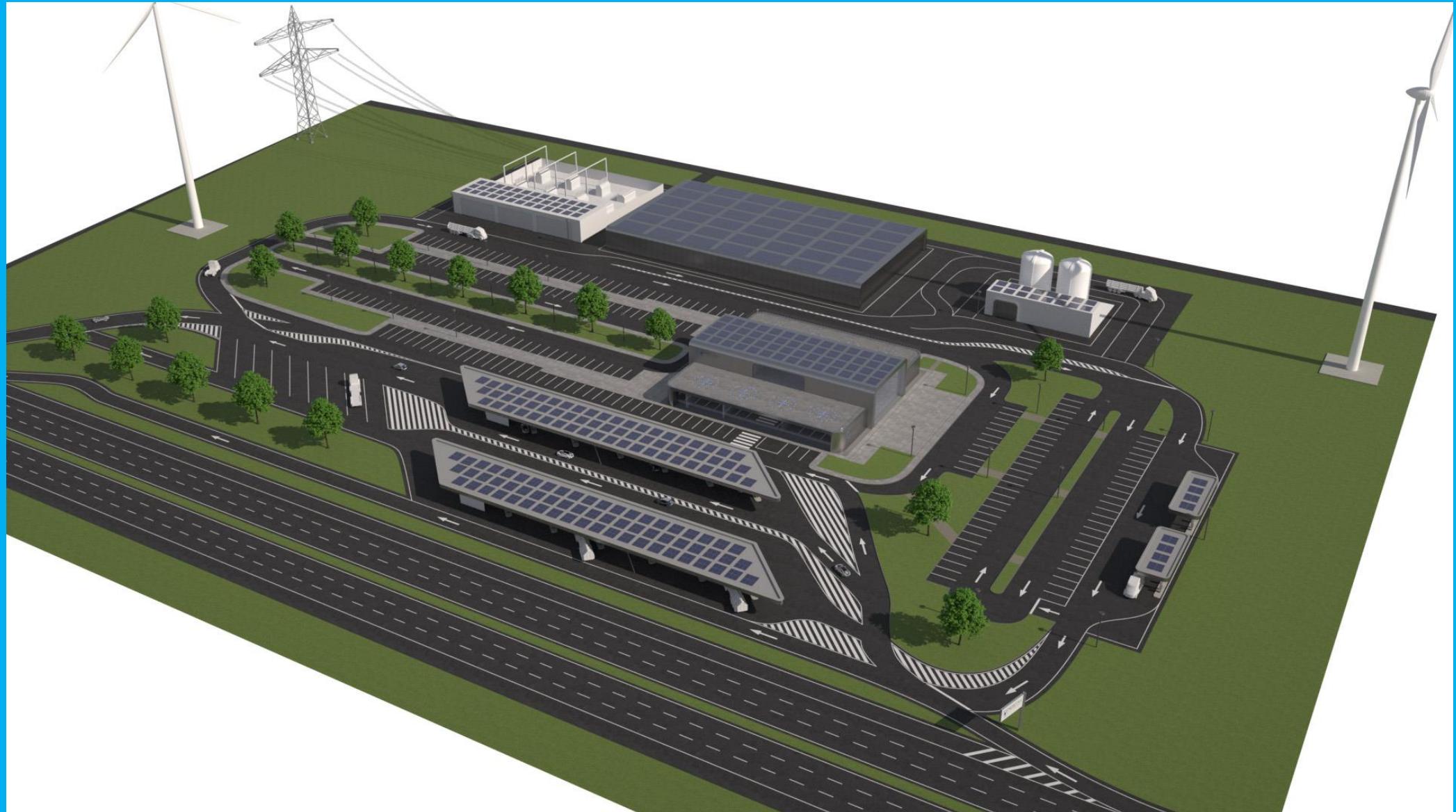
Over the last 12 years,
demand charges
increased by
120% on average in
California
while energy charges are
about the same.



SOLUTION - New Energy through a proven Private Public Partnership provides a long term **Energy Solution** that ensures electricity cost at a significantly lower and predictable rate using Solar and Storage with complete monitoring and management and Control

CONFIDENTIAL

OUR GOALS – *The Future Is Now!*



The E-mobility Solution is Now!

Monitizing and Optimizing Land Usage - Local Generation

The energy produced can be used

- a) to charge e-vehicles
- b) to produce hydrogen and to fuel vehicles with hydrogen
- c) to store excess energy or to sell it on the spot market in intraday trading. Offset existing site utility bills

Storage Systems:

- a) to store excess energy from the generating facilities
- b) Option to provide services in the control market (primary / secondary) with spare capacity
- c) for intraday trading
- d) for supplying energy for E / H2 mobility, when the generating facilities need additional support to supply enough energy.
- e) Charging at night and other time of low and available energy from the grid
- f) Resiliency

Advantage: the charging or discharging process can be implemented independently of the status of the battery. In other words, when the operation status "discharging" is in progress free capacities in the battery can be charged at the same time.



Who Are We?

**Industry Leaders in Every Segment of Energy -- Public
Private Partnering/JV for Integrating Renewable Resources
Effectively**

	Hanwha Energy	Enel X	AT&T	ENERCOLL	BYD Motors	Baja Carports	Brummitt Energy	NewEnergy
Energy Storage Needs	✓	✓		✓				✓
Solar Generation	✓			✓		✓		✓
Street Lighting		✓	✓					✓
Fleet Electrification and Conversion					✓			✓
Fast EV Charging Stations	✓	✓		✓	✓	✓		✓
Smart City & MTS Monitoring and Management					✓		✓	✓
Zero Energy/Carbon Modeling							✓	✓
E-Mobility - E and Hydrogen Charging				✓				✓
Public Private Partnership (PPP)	✓	✓	✓	✓	✓	✓	✓	✓

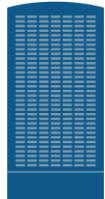
Bankable and Global experience



Making electric Zero Emission Bus a reality



Consultation & Design



Charging Hardware



Our obsession? Making it easy.



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Project Delivery

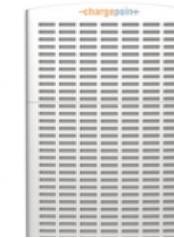


Operation Management

ChargePoint Overview



Light Duty Applications



Connected & Intelligent Solutions

2007

Founded in Campbell CA

600+

Employees globally

200+

Engineering staff globally

Offices Located:

United States

Campbell CA*

Scottsdale AZ



Europe

Amsterdam

Munich

London



CONFIDENTIAL
India

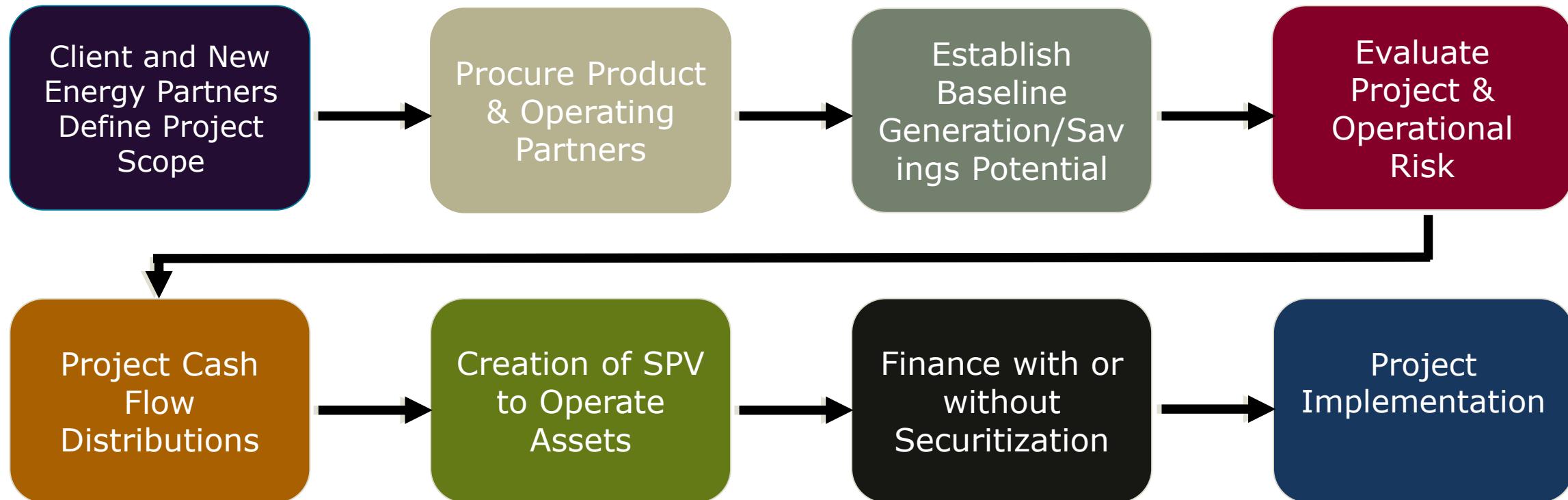
Haryana



* Manufacturing in compliance with Buy America Act

CLIENT AND NEW ENERGY PARTNERS TURNKEY JOINT VENTURE MODEL

Both In Front of the Meter and Behind the Meter Solutions



FULL TRANSPARENCY AT EVERY STEP

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Tier 1 Total Solution with Best Pricing

Total Hardware

“Made in America” – Hanwha’s highest performing quality Solar Panels with proven Utility-grade performance with 25 year warranty manufactured and delivered in the USA from number one supplier of solar.

Energy Storage Solutions designed to maximize overall system performance from only Tier 1 suppliers

Vehicle electrification that is flexible and scalable to meet the needs using only Tier 1 suppliers. Made in America

Helps negate any Utility Rate increases

Hydrogen Generation and building Incremental revenue streams. Enercoll

Integrated Software

Enel X Second largest Utility in the world providing consolidated City-wide performance monitoring with cloud-based “Smart” software platform.

Ensures CEC compliance include: Environmental monitoring, Public Safety, Water, City wide Lighting control and more

Enables Utility scale participation in Ancillary market and Power Generation

Flexible interface for fully customized reports and monitoring through cloud based resources

Professional Services & Construction

Already approved NECA electrical workers deliver turnkey solar and energy storage power plants fully integrated into a “Smart City monitoring and management system.

Hire local labor from sources to insure that majority of workers reside within territory.

70% of all Journeyman electricians will be graduates of a state approved electrical apprenticeship program ensuring highest quality workmanship.

All Electricians will have state certifications and will follow a stringent electrical safety policy

Most Favored nation pricing ensure lowest possible costs for project

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Maximize and Monetize non-revenue generating land and under-utilized existing resources

- **Provide Year-over-Year Growing Revenue Streams**
- **Minimize electrical energy costs with no start up costs**
- **Blockchain Approach to stripping out layers of excess margins**

Our Strategic Partners have a balance sheet strength of over \$600 Billion USD ensuring the depth and breath to enable a successful Public Private Partnership with you

Over \$600 Billion Balance Sheet

 Hanwha Energy

 174 POWER GLOBAL

 AT&T



 BYD

 **baja**
CARPORTS

 BRUMMITT ENERGY
ASSOCIATES INC



 -chargepoint-

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CLIENT AND NEW ENERGY PUBLIC PRIVATE PARTNERSHIP/ JOINT VENTURE

- Maximize and Monetize non-revenue generating land and under-utilized existing resources
- Provide Year-over-Year Growing Revenue Streams
- Minimize electrical energy costs with no start up costs
- PROVIDE MONEY FOR OTHER NEEDED PROJECTS
- Fleet Electrification and Grid Support



Bus



Coach



Taxi



Consumer car



Logistics Vehicle



Construction Vehicle



Sanitation Vehicle





Thank You

Discussion

CONFIDENTIAL

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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.

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

MINUTES
CITY COUNCIL

11/12/2019
REGULAR MEETING

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney
Marie Calderon, City Clerk
Sonja De La Fuente, Deputy City Clerk
Matthew Hamner, Police Chief
Art Vela, Public Works Director/City Engineer
Adam Rush, Community Development Director
Jennifer Christensen, Administrative Services Director
Ralph Wright, Community Services Director
Tom Miller, Electric Utility Director
Suzanne Cook, Deputy Finance Director
Ted Shove, Economic Development Manager
Phil Holder, Police Captain
Carla Young, Business Relations 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 November 12, 2019, at 5:16 p.m. at the Banning City Council Chamber, 99 E. Ramsey Street, Banning, California.

Elder Ralph Bobik, Church of Jesus Christ of Latter-Day Saints, offered the invocation.

Councilmember Peterson led the audience in the Pledge of Allegiance.

II. APPROVAL OF AGENDA

City Manager Schulze requested moving Report on Closed Session and Public Comment items ahead of the Presentation. A motion was made by Councilmember Andrade, seconded by Councilmember Wallace, to approve the agenda with the requested changes. Electronic vote was taken as follows:

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

III. REPORT ON CLOSED SESSION

City Attorney Ennis provided a report on Closed Session as follows:

- 1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: The City of Banning, et al. v. Cali Emerald Care, Inc., et al., Case No. RIC 1904157. **A report was provided regarding the case including the issuance of a preliminary injunction and lockout order.**
- 2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: James Arthur Algea II and Cali Emerald Care, Inc. v. City of Banning, Case No. RIC 1903009. **A status report was provided regarding litigation in the case including a grant of the City's demur.**
- 3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Cases: Sierra Club v. City of Banning, Case No. RIC 1900544, and Golden State Environmental Justice Alliance v. City of Banning; Case No. RIC 1900654 (Banning Distribution Center Project). **A status report was provided and there is no final or reportable action at this time.**
- 4. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: Supporters Alliance for Environmental Responsibility (SAFER) v. City of Banning, et al. (Lawrence Equipment Project), Case No. RIC 1903059. **A status report was provided and there is no final resolution to the case.**

5. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant Exposure to Litigation pursuant to paragraph (2) subdivision (d) of Section 54956.9 (one case). **A status report was provided on the matter with no reportable action.**
6. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Properties and Owners/Negotiating Parties: Real Property located in the vicinity of Ramsey and Hathaway – 1909 E. Ramsey Street, 2933 E. Ramsey Street, APN 532-120-011 – Ramirez Family Living Trust; 1933 E. Ramsey Street, APN: 532-120-012 – Liang; 1679 E. Ramsey Street, APN 532-120-019 – Tierra Firma Enterprise, LLC; Northeast corner of Ramsey Street and North Hathaway Street, APN 532-120-020 – Frank J. Burgess and Lorna D. Burgess, Trustees; Southeast corner of Ramsey Street and Hathaway Street, APN 532-140-005 – Frank Burgess; 1483 E. Ramsey St, APN 541- 170-019 – Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust; 1573 E. Ramsey St, APN 541-170-021 – Jen H. Huang
City Negotiators: Douglas Schulze, City Manager and Ted Shove, Economic Development Manager
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements. **A report was provided by Ted Shove and Paula Baeza regarding price and terms for acquisition of one of the parcels of property related to Ramirez Family Trust.**
7. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property Description: Real Property located in the vicinity of S. 22nd Street and W. Lincoln Street (APN 538-230-011)
City Negotiator: Ted Shove, Economic Development Manager
Negotiating Parties: Debra Hanna/Jade Real Estate
Under Negotiation: Price and Terms. **Direction was given to the City's negotiator, Ted Shove with respect to an offer to purchase the property.**
8. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property Description: Real Property located in the vicinity of W. Nicolet Street and N. 2nd Street (APN 540-083-002 and 540-083-003)
City Negotiator: Tom Miller, Electric Utility Director and Jason Smith, Electric Operations Manager
Negotiating Parties: Our Blessed Saint Kateri Takawitha
Under Negotiation: Price and Terms. **Direction was given to the City's negotiator.**

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

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

PUBLIC COMMENT(S)

Inge Schuler advised that at the end of the last Planning Commission Meeting, Community Development Director Adam Rush commented that the City is in negotiation with a cannabis manufacturing plant projected for the southwest corner of 8th and Lincoln. She advised that she does not believe that is a suitable location for such an enterprise and would like it on record. Also, she expressed her disappointment in the new links in the staff reports attached to the agenda, as they are not working for her on a regular basis.

Bill Hobbs advised Highway 243 is open to Idyllwild and it is fantastic.

Seeing no further comments, the Mayor closed Public Comments.

City Attorney Ennis advised that a cannabis manufacturing facility would require a Conditional Use Permit and cautioned City Council and Commissioners to not make up their mind on potential applications prior to the Public Hearing.

CORRESPONDENCE

One Item of correspondence was received (Attachment 1).

APPOINTMENT(S)

None

III. PRESENTATION(S)

Swearing In Ceremony for New Police Officers

Police Chief Doug Hamner introduced and provided background information on the following new police officers:

Everardo Villa
Brian Walker
Jack Loera
Jessica Segovia

City Clerk Marie Calderon offered the Oath of Office for each.

VI. CONSENT ITEMS

Mayor Welch asked if the Council wished to pull the item for discussion. Items 13 and 15 were pulled for discussion.

1. Minutes – October 22, 2019, Special Meeting (Workshop)
2. Minutes – October 22, 2019, Regular City Council Meeting
3. Contracts Approved by City Manager – October 2019
4. Police Stats – September 2019
5. Fire Stats – August and September 2019
6. Electric Utility Capital Improvement Project Update
7. Resolution 2019-141, Accepting Donation from Sun Lakes Charitable Trust
8. Notice of Completion for Project No. ATPL-5214, “ATP Cycle 2 – Bicycle and Safe Route to School Improvements”
9. Resolution 2019-138, Approving Community Development Block Grant Supplemental Agreement
10. Resolution 2019-136, Awarding a Professional Services Agreement to Transtech Engineers, Inc. for Plan Check, Inspection, and Related Administrative Services
11. Resolution 2019-142, Awarding a Construction Agreement for Project 2019-046 “Dysart Park Fencing Project” to AB Fence Company, Inc.
12. Resolution 2019-131, Accepting Supplemental Law Enforcement Services Allocation (SLESA) in the Amount of \$100,000
14. Resolution 2019-143, Authorizing Purchase of Three (3) Ford Police Interceptor Utility Patrol Vehicles through Fritts Ford Under Riverside County PURAC #1634

Public Comment - None

A motion was made by Councilmember Wallace, seconded by Councilmember Happe, to approve the rest of the consent calendar items 1 through 12 and 14, as presented. Electronic vote was taken as follows:

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

Action: Approved Consent Items 1 through 12 and 14.

13. Resolution 2019-140, Awarding a Construction Agreement for Project No. 2019-05, "Street Rehabilitation at Various Locations" to Hardy and Harper, Inc. of Lake Forest, California

Councilmember Wallace asked for clarification regarding the start date. Art Vela, Public Works Director/City Engineer corrected the projected start date is January 2020. She also asked what projects Hardy & Harper has done for the City. Public Works Director Vela provided information and background as requested.

Councilmember Happe asked how the priority list is established. Director Vela provided information and background as requested.

Public Comment - None

A motion was made by Councilmember Wallace, seconded by Mayor Welch, to approve the rest of the consent calendar item 13, as presented. Electronic vote was taken as follows:

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

Action: Approved Consent Item 13.

15. Request for Addition of Temporary Police Captain Position

Councilmember Peterson asked for clarification regarding whether the selected employee is an internal or external candidate. Jennifer Christensen, Administrative Services Director advised the selected candidate is external, however this would need to be done either way to allow for cross training.

Councilmember Happe asked how the difference in salary would be paid. Director Christensen explained and provided the requested information.

Public Comment - None

A motion was made by Councilmember Peterson, seconded by Councilmember Happe, to approve the rest of the consent calendar item 15, as presented. Electronic vote was taken as follows:

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

Action: Approved Consent Item 15.

VII. PUBLIC HEARING(S)

None

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Mayor Pro Tem Andrade announced that the landscaping in front of the Chamber of Commerce has been done and it looks very nice. She also advised that the Boys & Girls Club will be holding their Chances & Cheese event on November 21st.

Councilmember Wallace advised that Community Action Partnership is considering providing additional computers to the City's Senior Center.

Councilmember Peterson announced that the Electric Cost of Service Ad Hoc Committee Meeting would be held Wednesday, November 13th at 2:00 p.m. at City Hall Council Chamber.

Councilmember Happe had nothing to report.

Mayor Welch had nothing to report.

REPORT BY CITY ATTORNEY

None

REPORT BY CITY MANAGER

City Manager Douglas Schulze advised Coffee with the City will be held on November 21, 2019, at 6:00 p.m. for Districts 1 and 4. However, anyone may attend.

REPORTS OF OFFICERS

1. Resolution 2019-137, Approving Fiscal Year 2020-21 Community Development Block Grant Applications

Ted Shove, Economic Development Manager, presented the staff report for this item. He introduced Amy Herr, Director of the Boys & Girls Club. Ms. Herr expressed her desire for the Council to consider approving their application for funding and introduced two of their teen members, Dejon and Abraham who shared their stories.

Councilmember Peterson expressed his desire to only award the funding to City projects and/or events.

Councilmember Happe explained that four applications were received, which included three from the City. He also explained that the funding comes from outside of the City and that it is up to the City to award the funding to the applicants and that he and Councilmember Wallace were excited to do this for the community and the children and explained their rationale.

Public Comment - None

A motion was made by Councilmember Wallace, seconded by Councilmember Andrade, to adopt Resolution 2019-137, adopting Resolution 2019-137, approving Fiscal Year 2019-2020 Community Development Block Grant Program Project and authorize staff to submit application to the Riverside County Economic Development Agency. Electronic vote was taken as follows:

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

Action: **Adopted Resolution 2019-137 and authorized staff to submit application to the Riverside County Economic Development Agency.**

2. Resolution 2019-135, Authorizing Waiver of Fees for Healing Waters Mobile Shower for Water and Wastewater Use

City Manager Doug Schulze presented the staff report for this item.

There was some discussion held regarding how the program works and where.

Public Comment - None

A motion was made by Councilmember Happe, seconded by Mayor Welch, to adopt Resolution 2019-135, authorizing waiver of fees for Healing Waters Mobile Shower water and wastewater use. Electronic vote was taken as follows:

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

Action: **Adopted Resolution 2019-135.**

3. Resolution 2019-139, Establishing Financial Targets and Revenue Requirements for the 2020 Electric Cost of Service Study Use

Tom Miller, Electric Utility Director, presented the staff report for this item.

Councilmember Happe asked some questions and a brief discussion was held related to energy generation.

There was a brief discussion held regarding electric rates and bonding.

Electric Utility Director Miller reminded Council this is their policy directive to staff.

Public Comment - None

A motion was made by Councilmember Happe, seconded by Mayor Welch, to adopt Resolution 2019-139, establishing financial targets for the electric utility, which affect the revenue requirements needed to be recovered by electric rates. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2019-139.

4. Update and Discussion on the Draft Financial Analysis, Redevelopment and Proposition 218 of Landscape Maintenance District (LMD) No. 1 Report and applicable Utility Rates

Art Vela, Public Works Director/City Engineer, presented the staff report for this item along with a PowerPoint presentation (Attachment 2).

There was some discussion held regarding the annexation of Peacock Valley 2 into the Landscape Maintenance District and that process.

Public Comment - None

A motion was made by Councilmember Peterson, seconded by Councilmember Andrade, directing staff to apply retail utility rates to LMD No. 1 and to move forward with the Proposition 218 process, as well as the annexation process. Electronic vote was taken as follows:

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

ABSTAIN: None
ABSENT: None

Action: Directed staff to apply retail utility rates and move forward with the Proposition 218 process, as well as the annexation process.

5. Ordinance 1555, Amending Chapters 15.08 and 8.16 of the Banning Municipal Code by Adopting by Reference the Entirety of the 2019 Editions of the California Building Code, Residential Code, Green Building Standards Code, Plumbing Code, Mechanical Code, Electrical Code, and Fire Code, the 2018 edition of the International Property Maintenance Code, and the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, Together with Certain Amendments, Deletions and Additions Supported by the Necessary Findings and Justification

Adam Rush, Community Development Director, presented the staff report for this item.

Councilmember Happe requested clarification regarding the cost recovery section of the fire code. Ken King with Riverside County Fire Department provided clarification and answered questions.

Councilmember Happe requested clarification regarding the pool fencing portion update to the Building Code. Patrick Johnson, Building Official provided clarification regarding pool fencing.

Public Comment - None

A motion was made by Mayor Welch, seconded by Councilmember Happe, to waive full reading and introduce, as read by title only, Ordinance 1555. Electronic vote was taken as follows:

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

Action: Ordinance 1555 Pass First Reading.

A motion was made by Mayor Welch, seconded by Councilmember Happe, to schedule a public hearing and second reading of Ordinance 1555 for December 10, 2019. Electronic vote was taken as follows:

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

ABSTAIN: None
ABSENT: None

Action: **Scheduled Public Hearing and Second Reading of Ordinance 1555.**

IX. DISCUSSION ITEM

None

CITY COUNCIL – Next Meeting, December 10, 2019, 5:00 p.m.

X. ITEMS FOR FUTURE AGENDAS

XI. ADJOURNMENT

By consensus, the meeting was adjourned at 7:22 p.m.

Minutes Prepared by:

Sonja De La Fuente, Deputy City Clerk

The entire discussion of this meeting may be viewed here:
<https://banninglive.viebit.com/player.php?hash=Q7LnXNGwoqh5> and related documents can be viewed here:
<http://www.banningca.gov/ArchiveCenter/ViewFile/Item/2194> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.

ATTACHMENT 1



November 7th 2019

To The Banning City Council,

I moved to this semi rural setting so that I would have a little room and a larger piece of property to work with. I own this property and although I do see the need and appreciate some of the guide lines set down to control the aesthetics of a growing community' However I feel that this storage container ordinance is an overreach of you authority.

Your building codes and setbacks for permanent structures on the properties limit what a person can do concerning storage structures. The storage containers afford the property owner to safely and neatly store their belongings and protect them from deteriorating due to weather exposure. I don't believe that a property owner would pay for the cost of a storage container if they did not have items that they value. So weather you allow them to have a storage container or not they will not get rid of those treasured belongings. Now you have created a situation where the belongings that would have been placed in a container and out of sight are now piled up in the yard deteriorating away as yard art. These yard art issues will not be controlled by code enforcement as is evident in a large percentage of the properties around here now.

With this ordinance you are not only telling the property owners what they can have on their own property, but now how many and where they have to place it. I don't object to the paint requirement but I feel that if I have the room to adequately place containers on my property for private use and storage I should be able to do that without the expense of permit fees and government over reach.

These containers are not permanent structures; they are not used for habitation, and should be exempt from setback requirements as they are movable and cause no burden on future development. The setbacks suggested 50 ft from front 25 from side and 50 to the rear are a detriment to the rest of the ordinance. Think about this, if you allow the container to be placed near the property line it can be easily camouflaged with shrubbery or fence line. The way it is worded you have

required the container to be placed out where there is no hiding it, and it interferes with the land owners landscape plans. Also if you allow only one container an owner has to deal with a monster container 53 ft. long where as if you allowed smaller containers equaling the same sq footage i.e. (2- 25 ft containers) it would give the landowner a little more versatility in placing them.

Just because some of you have a distain against storage containers you should not use your position of power to inflict your will upon the community. I agree that you probably need a backyard requirement and paint but that is where this should stop. A half acre parcel can easily handle 2 or 3 containers of various sizes without impeding on the surrounding environment. And if properly placed can be hidden from street view and not be a neighborhood eyesore.

I request that you reconsider this matter. The city uses storage containers on several of their sites and you cannot require the resident to comply and exempt the city. I do not see a particular problem or over abundance of containers on any properties throughout this city and feel that this is an attempt to generate revenue at the property owner's expense. This needs to be rewritten and some of these outrageous conditions removed. A storage container in the yard is much more slightly than all of its contents strewn all over the yard. Think about that before you in act an unenforceable burden on the already overworked code enforcement division.

Since there has been no existing complaint on the existing containers if you do in act this there should be a grandfather clause for the existing containers, as the current owners have a considerable investment in the purchase and placement of the existing containers. Frankly I do not know why you are wasting your time and energy on this when there are several other eye sores that need to be addressed first like the Banning Business Center and the connection between Westward and Sun Lakes, or all the junk in people's yards that a container would solve. Why target something that is going to piss people off instead of these other major issues.

Thank You,
John Hagen, Banning resident

ATTACHMENT 2



LANDSCAPE MAINTENANCE DISTRICT NO. 1

Draft Financial Analysis, Redevelopment, & Proposition 218 Report

Overview

Landscape Maintenance District No. 1 (LMD No. 1)

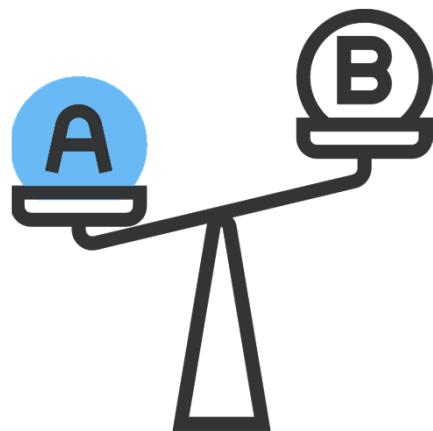
- Provides Funding for Landscaping Services, Utilities & Maintenance
Established in 1990
- Comprised of 4 Zones
Original Zones Established without an Annual Escalator
- Annexed 8 Additional Tracts (1 Zone) that Escalate
Annually by Consumer Price Index (CPI)

Financial Analysis, Redevelopment and Prop 219 Report

- ✓ To make sure that the LMD zones comply with Prop 218 guidelines
- ✓ To develop appropriate assessments sufficient to cover current and increasing costs to administer and maintain the LMD.
- ✓ To look at the impacts to future assessments to cover large capital improvement projects.

ONES

Current Zone Configuration vs. Special Benefit

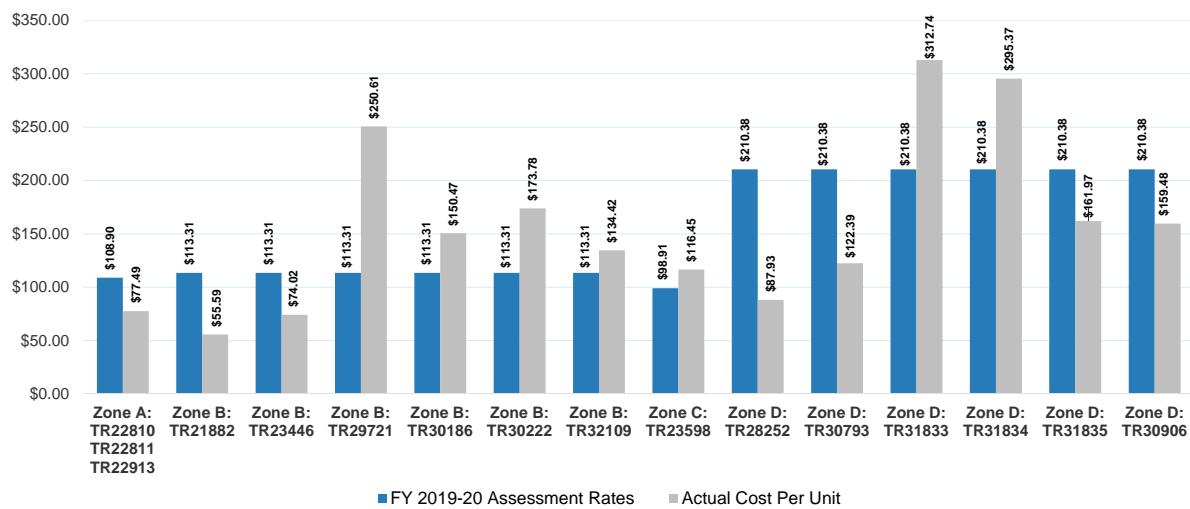


4 Current Zones:

- Tracts within Zones are Not Contiguous
- Tracts are Paying for Benefit Not Received
 - Tracts (within same Zone) paying **higher rates** than their actual costs
 - Tracts (within same Zone) paying **lower rates** than their actual costs

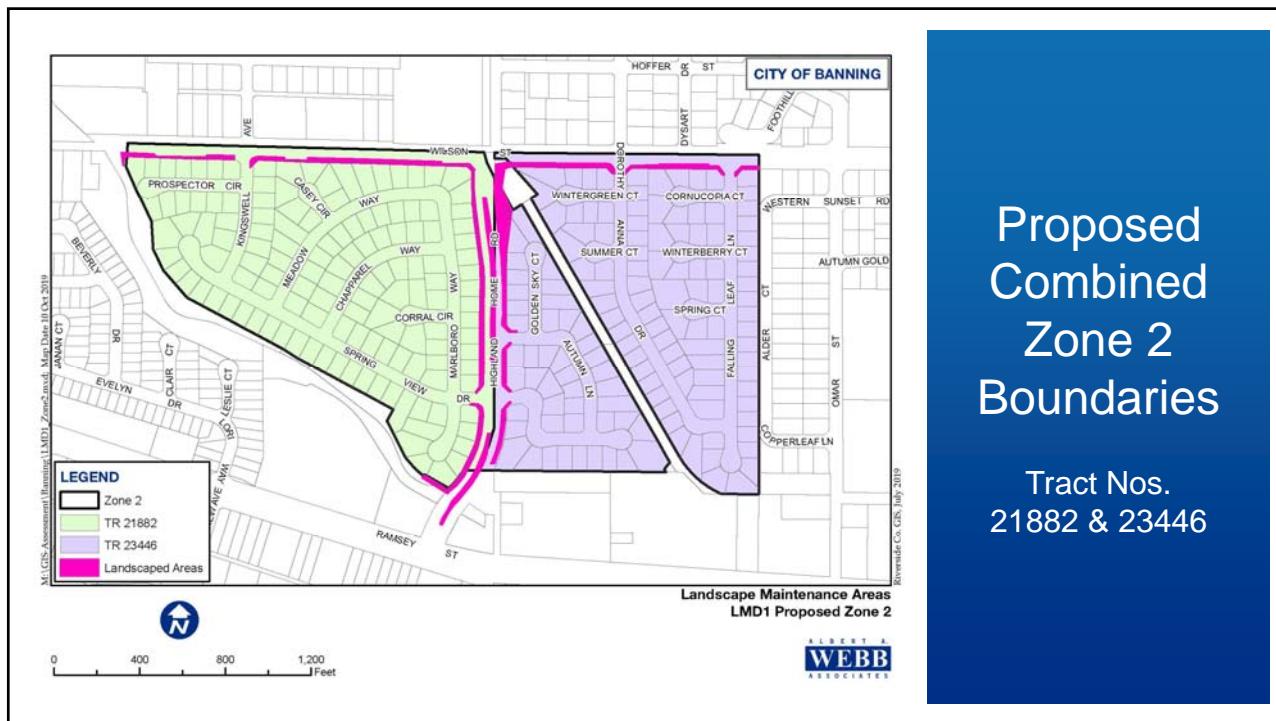
Assessment Rate vs Actual Cost

FY 2019-20 Assessment Rate Per Unit vs. Actual Cost Per Unit



New Zone Recommendations

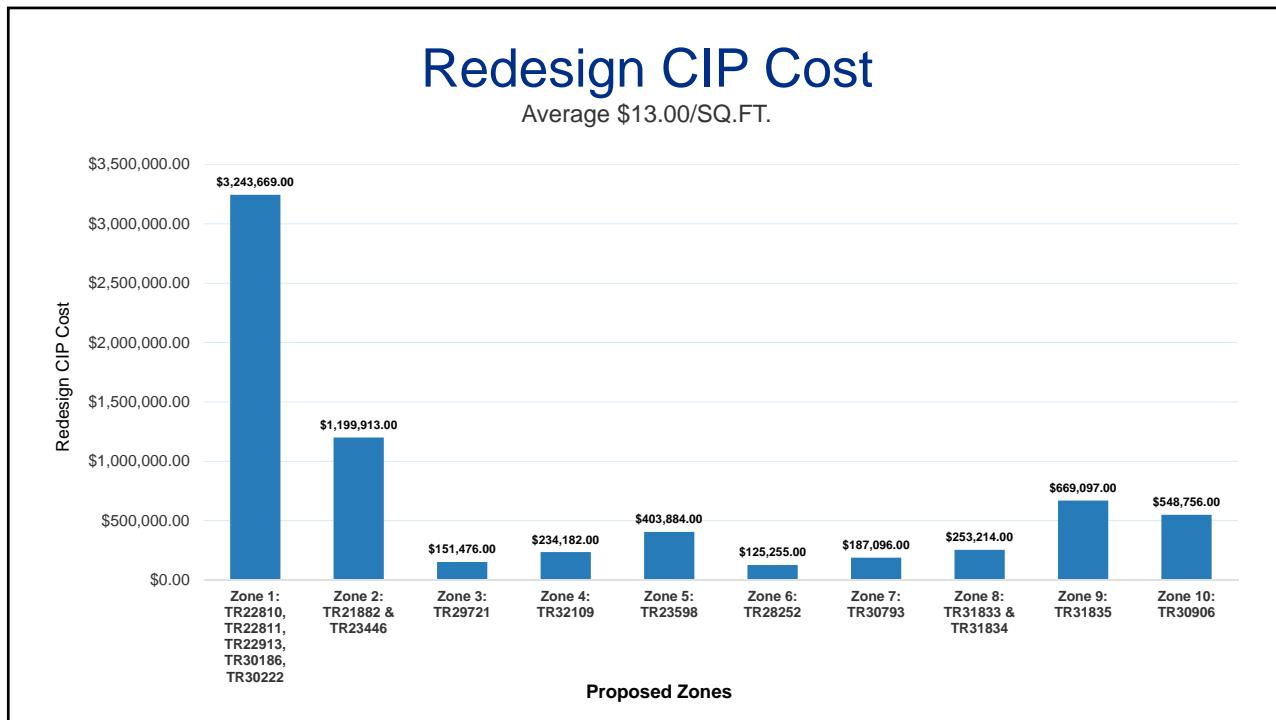
Proposed Zone	Tract No(s).	# of Assessment Units
1	TR22810, TR22811, TR22913, TR30186, TR30222	319
2	TR21882 & TR23446	272
3	TR29721	21
4	TR32109	38
5	TR23598	97
6	TR28252	70
7	TR30793	43
8	TR31833 & TR31834	35
9	TR31835	33
10	TR30906	87





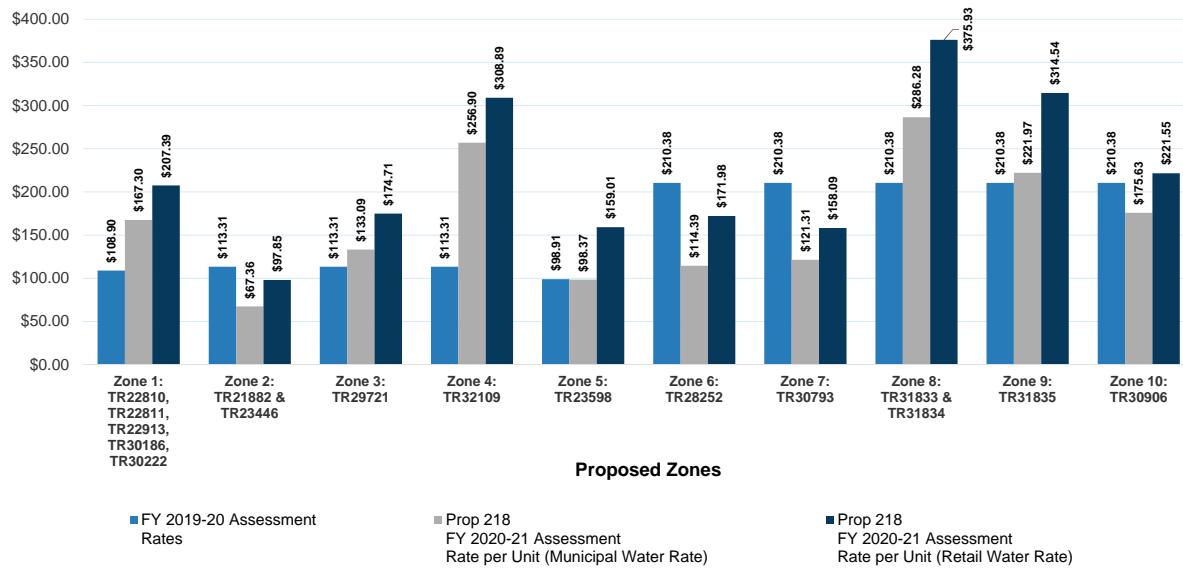
CAPITAL IMPROVEMENTS



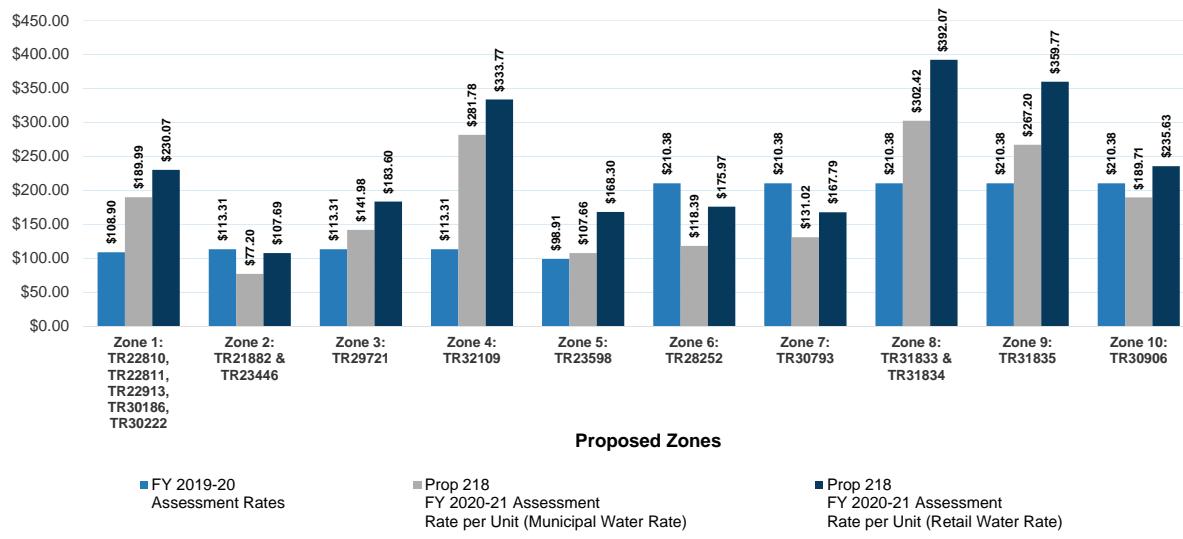


Costs and Proposed
Assessment Rates Using Retail
and Municipal Water Rates

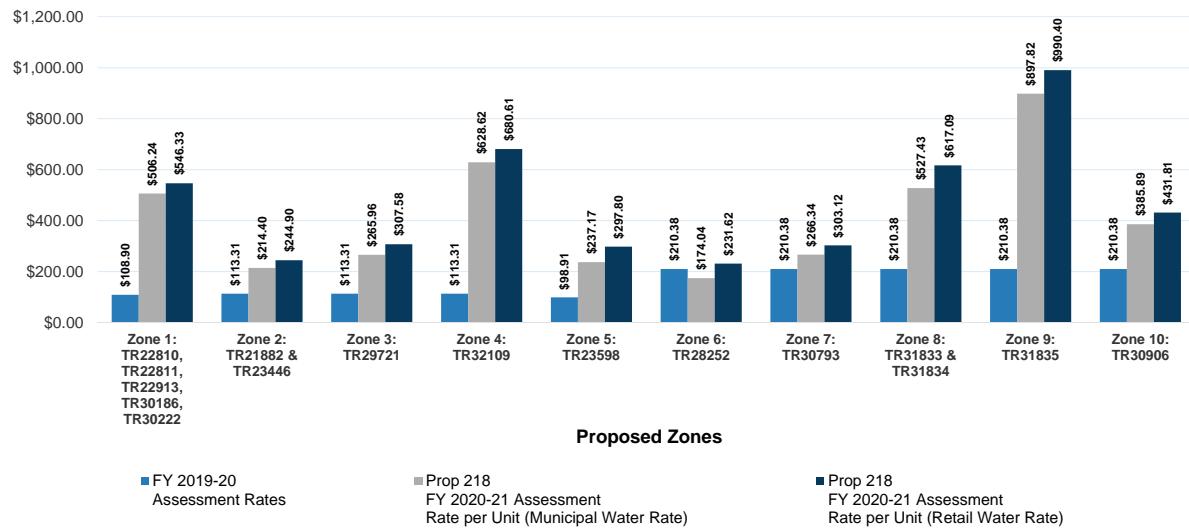
FY 2020-21 Costs w/ Maintenance Program (\$.29sf)



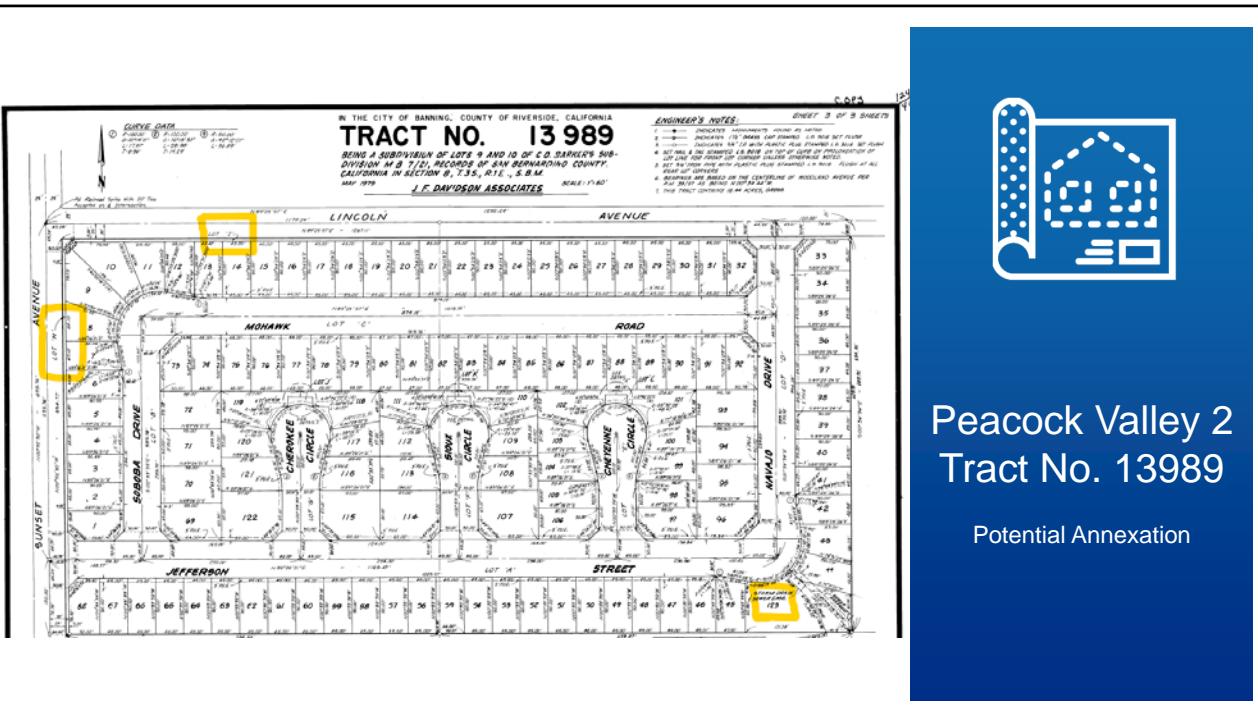
FY 2020-21 Costs w/ Maintenance Program Only Escalated By 50%



FY 2020-21 Costs w/ Maintenance & Redesign CIP Collected over 30 Years



Potential Annexation
Peacock Valley 2
Tract No 13989



Peacock Valley 2

Tract No. 13989

Potential Annexation

Lot I – West Lincoln Street



Lot H – Sunset Avenue

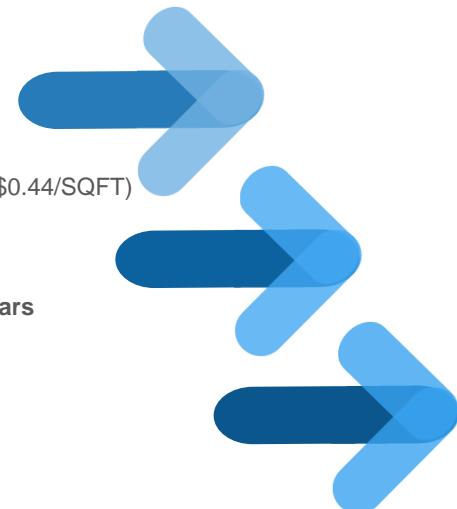


Requested Action

Proposition 218 Proceeding to Increase the Assessment Rates

Property Owner Options (Choice of 3):

- Budget & Rates with Maintenance Program Only (\$0.29/SQFT)
 - Using Retail Water Rates
 - Using Municipal Water Rates
- Budget and Rates with Maintenance Program escalated by 50% (\$0.44/SQFT)
 - Using Retail Water Rates
 - Using Municipal Water Rates
- Budget & Rates with Maintenance Program & CIP program, **30 Years**
 - Using Retail Water Rates
 - Using Municipal Water Rates
- Annexation of Peacock Valley 2



THANK YOU.
QUESTIONS?



Draft Financial Analysis, Redevelopment, & Proposition 218 Report
Landscape Maintenance District No. 1

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Suzanne Cook, Deputy Finance Director
MEETING DATE: December 10, 2019
SUBJECT: Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of October 2019

RECOMMENDATION:

That City Council review and ratify the warrants for period ending **October 31, 2019**, per California Government Code Section 37208.

WARRANT SUMMARY:

Description	Payment #	Amount	Total Amount
Checks:			
Checks Issued during Month	170999-171489	\$ 2,751,789.24	
Voided / Reissue Check		\$ 855.61	
Check Total			\$ 2,750,933.63
Wires Total	1016-1018		\$ 3,533,030.75
ACH payments:	9006549- 9006579		
Payroll Direct Deposit	10/11/2019	\$ 384,350.94	
Payroll Direct Deposit	10/25/2019	\$ 398,111.30	
Other Payments		\$ 663,285.04	
ACH Total			\$ 1,445,747.28
Payroll Checks:	11937 - 11958		
Payroll - Regular	10/11/2019	\$ 1,677.62	
Payroll - Manual Check	10/1/2019 & 10/16/2019	\$ 2,082.47	
Payroll - Regular	10/25/2019	\$ 2,014.79	
Payroll Check Total			\$ 5,774.88
Total Warrants Issued for October 2019			\$ 7,735,486.54

ATTACHMENTS:

- 1) Fund List
- 2) Warrant Report October 2019
- 3) Warrant Report Detail October 2019
- 4) Voided Check Log – October 2019
- 5) Payroll Log
- 6) Payroll Registers

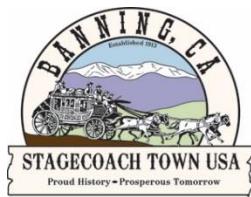
https://banningca.gov/DocumentCenter/View/6675/Attachment_AP-and-Payroll-Warrants-October-2019

If you have any questions, please contact the Finance Department so that additional detailed information can be provided to you.

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Suzanne Cook, Deputy Finance Director
MEETING DATE: December 10, 2019
SUBJECT: Receive and File Cash, Investments and Reserve Report for the Month of October 2019

RECOMMENDATION:

That City Council receive and file Cash, Investment and Reserve Report for **October 31, 2019** in accordance with California Government Code 53646.

CASH AND INVESTMENT SUMMARY:

Description	Prior Month	Current Month
Funds Under Control of the City		
Cash		
Cash on Hand	\$ 3,655.00	\$ 3,655.00
Checking and Savings Accounts	\$ 10,730,032.42	\$ 9,016,058.56
Investments		
LAIF	\$ 41,655,255.18	\$ 41,911,839.28
Brokerage	\$ 27,045,120.58	\$ 27,108,848.95
Total Funds Under Control of the City	\$ 79,434,063.18	\$ 78,040,401.79
Funds Under Control of Fiscal Agents		
US Bank		
Restricted Bond Project Accounts	\$ 15,276,240.02	\$ 14,759,710.22
Restricted Bond Accounts	\$ 4,900,240.50	\$ 4,900,240.50
Union Bank		
Restricted Funds	\$ 624,974.92	\$ 473,706.54
Total Funds Under Control of Fiscal Agents	\$ 20,801,455.44	\$ 20,133,657.26
Total Funds	\$ 100,235,518.62	\$ 98,174,059.05

RESTRICTED, ASSIGNED, COMMITTED AND RESERVED SUMMARY:

Description	Prior Month	Current Month
Total Funds	\$ 100,235,518.62	\$ 98,174,059.05
Restricted Funds	37,748,646.84	\$ 36,602,727.79
Assigned Funds - Specific Purpose	8,969,200.65	\$ 8,969,200.65
Committed Funds - Specific Purpose	3,242,731.75	\$ 3,242,731.75
Fund Balance Reserves	15,455,882.97	\$ 15,455,882.97
Total Restricted, Assigned, Committed and Reserves	\$ 65,416,462.21	\$ 64,270,543.16
Operating Cash - Unrestricted Reserves	\$ 34,819,056.41	\$ 33,903,515.89
Less Accounts held in Investments	\$ 27,045,120.58	\$ 27,108,848.95
Liquid Cash	\$ 7,773,935.83	\$ 6,794,666.94

ATTACHMENTS:

- 1) Cash, Investment and Reserve Report October 2019
https://banningca.gov/DocumentCenter/View/6672/Attachment-1---ASD-Report-Fund-Bal--Reserve_FY19-20---October-2019
- 2) Investment Report October 2019
<https://banningca.gov/DocumentCenter/View/6673/Attachment-2---Investment-Report-October-2019>
- 3) LAIF / PMIA Performance Report
https://banningca.gov/DocumentCenter/View/6674/Attachment-3---PMIA-LAIF_perform-October-2019

If you have any questions, please contact the Finance Department so that additional detailed information can be provided to you.

Approved by:



Douglas Schulze
City Manager



**CITY OF BANNING
CITY COUNCIL REPORT**

TO:

CITY COUNCIL

FROM:

Douglas Schulze, City Manager

PREPARED BY:

**Matthew Hamner, Police Chief
Sol Ivett Avila, Executive Assistant**

MEETING DATE: **December 10, 2019**

SUBJECT:

Police Department Statistics for October 2019

RECOMMENDED ACTION:

Receive and File October 2019 Police Statistics.

BACKGROUND:

The Police Department provides statistics to the public and City Council upon request.

FISCAL IMPACT:

None

OPTIONS:

1. Receive and File

ATTACHMENT:

1. October 2019 Statistics

<https://banningca.gov/DocumentCenter/View/6687/Oct-2019-stats>

Approved by:

Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Todd Hopkins, Division Chief

PREPARED BY: Laurie Sampson, Executive Assistant

MEETING DATE: December 10, 2019

SUBJECT: Receive and File Fire Department Statistics for October 2019

RECOMMENDED ACTION:

Receive and file Fire Department statistics for October 2019.

BACKGROUND:

The Fire Department provides statistics to the public and City Council upon request.

JUSTIFICATION:

N/A

FISCAL IMPACT:

None

ATTACHMENTS:

1. Fire Statistics for October 2019
<https://banningca.gov/DocumentCenter/View/6688/Banning-October-Fire-Report>

Approved by:

A handwritten signature in blue ink, appearing to read "ASL SF".

Douglas Schulze
City Manager

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Suzanne Cook, Deputy Finance Director**

MEETING DATE: **December 10, 2019**

SUBJECT: **Resolution 2019-128, 2019-21 UA and 2019-02 SA, Approving an Amendment to the Fiscal Year 2019-20 Budget for Encumbrance Carryovers and Continuing Appropriations of Unexpended Fiscal Year 2018-19 Appropriations**

RECOMMENDED ACTION:

That the City Council:

1. Approve Resolutions 2019-128, 2019-21 UA and 2019-02 SA, approving an amendment to the Fiscal Year 2019-20 Budget for encumbrance carryovers and continuing appropriations of unexpended Fiscal Year 2018-19 appropriations; and
2. Authorize the Administrative Director to make the necessary budget adjustments, appropriations and transfers.

BACKGROUND:

The two-year budget for fiscal years 2018-19 and 2019-20 was adopted on June 26, 2018.

JUSTIFICATION:

At the end of fiscal year 2018-19 several budgeted projects had not been fully completed for a variety of reasons. In addition, in many cases, funds had been encumbered (i.e. committed via purchase order toward a specific item or project) but not yet expended. In preparation of the Budget, departments were instructed not to include previously approved appropriations or encumbered items in their upcoming fiscal year requests in

to avoid the “double” budgeting of expenditures. However, these items (continuing appropriations and encumbrances) were accounted for in available fund projections and thus will not impact previously presented 2019-20 fund balances. Allowing for the carryover of unexpended funds that are earmarked for specific purposes facilitates meeting our budgetary goals.

FISCAL IMPACT:

Previously approved, unspent appropriations as well as known other budgetary adjustments were accounted for in the FY 2019-20 available fund balance projections that were approved during the budget process. Therefore, funding for FY 2018-19 encumbrances and continuing appropriations will not impact previously presented projections. Totals presented in the detailed listings (Exhibit A) for the Operating and Capital Budgets are summarized in the following chart:

Authority	Encumbrances	Operating Budget		Capital Budget	
City		\$ 989,086		\$ 1,480,266	
BUA		\$ 472,426		\$ 1,031,148	
SA		\$ 0		\$ 96,589	
Continuing Appropriations					
City		\$ 2,944,154		\$ 14,302,980	
BUA		\$ 0		\$ 2,503,642	
SA		\$ 362,003		\$ 5,288,672	
Totals		\$ 4,767,669		\$ 24,703,297	

OPTIONS:

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

ATTACHMENTS:

1. Resolution 2019-128 Including Exhibit A Operating & Capital Budget Detailed Listings of Continuing Appropriations and Encumbrances.
<https://banningca.gov/DocumentCenter/View/6669/1-Resolution-2019-128-FINAL>
2. Resolution 2019-21 UA Including Exhibit A Operating & Capital Budget Detailed Listings of Continuing Appropriations and Encumbrances.
<https://banningca.gov/DocumentCenter/View/6670/2-Resolution-2019-21-UA-FINAL>
3. Resolution 2019-02 SA Including Exhibit A Operating & Capital Budget Detailed Listings of Continuing Appropriations and Encumbrances.
<https://banningca.gov/DocumentCenter/View/6671/3-Resolution-2019-02-SA-FINAL>

Approved by:

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Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO:

CITY COUNCIL

FROM:

Douglas Schulze, City Manager

PREPARED BY:

Tom Miller, Electric Utility Director

Brandon Robinson, Electrical Engineering Supervisor

MEETING DATE: **December 10, 2019**

SUBJECT:

Resolution 2019-132, Adopting Banning Electric Utility Wildfire Mitigation Plan Version 1.0

RECOMMENDED ACTION:

Staff recommends that the Banning City Council approve Resolution 2019-132 adopting Banning Electric Utility's ("BEU") attached Wildfire Mitigation Plan ("WMP") Version 1.0 in substantially final form.

BACKGROUND:

In 2008, the California Public Utilities Commission ("CPUC") initiated a proceeding to address fires related to utility infrastructure, following a series of wildfires that occurred in 2007 and 2008. The goal of this proceeding was to establish new industry standards that would reduce the risk of electric line-ignited wildfires, with a focus on areas of the state where wildfire risks are elevated. In 2012, the CPUC adopted a fire map created by the California Department of Forestry and Fire Protection's ("CAL Fire") Fire and Resource Assessment Program ("FRAP"), also known as the FRAP Map, that depicts areas of California where there is an elevated hazard for the ignition and rapid spread of fires due to strong winds, abundant dry vegetation, other environmental conditions and were at a unique risk of due to the presence of high voltage electric line-ignited lines in these areas.

In 2016, Governor Jerry Brown signed Senate Bill ("SB") 1028 which required publicly owned utilities ("POUs") to identify additional wildfire mitigation measures that a POU could take if the POU governing board found that its overhead electric lines and equipment posed a significant risk of causing a catastrophic wildfire. SB 1028 required that the POU governing board must base this determination on "historical fires and local

conditions," and must consult with local fire departments and other entities with responsibilities for the control of wildfires within the relevant area. These requirements were specified in the newly added Public Utilities Code Section 8387.

In 2018, the CPUC completed the development of the statewide Fire Threat Map that designates areas of the state at an elevated risk of electric line-ignited wildfires. This updated map incorporated historical fire data, fire-behavior modeling, and assessments of fuel, weather modeling, and a host of other factors. The map development and approval process involved detailed review by the relevant utility staff and local fire officials, a peer review process, and ultimate approval by a team of technical experts led by CAL Fire.

The CPUC's Fire Threat Map includes three Tiers/Levels of fire threat risk. Tier 1 consists of areas that have the lowest hazards and risks. Tier 2 consists of areas where there is an *elevated risk* for destructive electric line-ignited wildfires. Finally, Tier 3 consists of areas where there is an *extreme risk* for destructive electric line-ignited wildfires.

BEU reviewed the CPUC's Fire Threat Map and identified overhead electric lines or equipment located in the areas designated as either Tier 2 (elevated risk) or Tier 3 (extreme risk). Banning Canyon and Mias Canyon areas are the only Tier 3 areas in Banning, while the site of the Rancho San Gorgonio Development, an area in East Banning north and South of the Banning Airport, areas along the east and west boundary of North Hathaway Street, the area in north-central Banning known as Communication Hill, Gilman Ranch and Sunnyslope Cemetery areas are all considered Tier 2 areas.

Staff has reviewed existing equipment and vegetation, historical fire data and local conditions. Based on this review, staff concluded BEU's overhead electric lines and equipment did not pose a significant wildfire risk in the Rancho San Gorgonio Development, East Banning north and South of the Banning Airport, the Gilman Ranch and Sunnyslope Cemetery, southeast Banning south of Wesley Street and Smith Creek, and the portion of area along the boundary of North Hathaway Street be designated a high-risk fire area although the CPUC fire map and FRAP Map show these areas as an elevated risk area. This is because BEU has only a few hundred feet of overhead wire in each of these sparsely-developed areas and has no plans to construct additional overhead lines in these areas. Additionally, within the next few years, three new master planned area will be constructed in the Rancho San Gorgonio, Gilman Ranch and Sunnyslope Cemetery areas, eliminating much of the undeveloped at-risk area. BEU intends to recommend these revisions to the CPUC Fire Threat Map, however BEU also understands that it must responsibly incorporated the High Fire Threat District into its construction, inspection, maintenance, repair, and clearance practices, where applicable.

To reduce the risk of wildfires in Banning and Mias Canyons, BEU has increased patrols and visual inspections, upgraded vegetation management and has begun installing protective dielectric covers over pole-connected overhead electrical equipment and "expulsion-limiting" fuses at the utility poles in many areas. BEU is also studying some

other equipment changes, such as the possibility of standardizing fiberglass cross arms and installing fire-resistant poles (fiberglass, ductile iron and light-weight steel) in Tier 3 fire risk areas. Lastly, BEU is highly considering the use of on-line distribution circuit reclosers that will allow BEU to shut off power to this area if the utility feels that de-energization is warranted. These measures will reduce the risk of fires but will also result in more interruptions during periods of high wind.

It will be a challenge to determine the most effective use of de-energization equipment specifically in the Mias Canyon area since BEU currently provides primary electric voltage through Mias Canyon Road and Southern California Edison (“SCE”) transforms BEU’s primary voltage to secondary voltage to serve 14 residential customers in this area (meters are owned by and billed through SCE). BEU will work diligently with SCE to reach a consensus on the sequence of operations during such an event such as notifying residents of any potential fire threats and coordinating any Public Safety Power Shutoff (“PSPS”) measures if absolutely necessary.

JUSTIFICATION:

In 2018, Governor Brown signed SB 901 (stats. 2018), which addressed a wide range of issues relating to wildfire prevention, response, and recovery. SB 901 substantially revised the Public Utilities Code Section 8387, eliminating the prior process established by SB 1028 and instead mandated all POUs (regardless of size or wildfire risk) develop a wildfire mitigation plan. Pursuant to the amended Section 8387, all POUs must present a wildfire mitigation plan to its governing board or City Council prior to January 1, 2020, and annually thereafter. Section 8387(b)(2) specifies the topics that must be addressed in the POU wildfire mitigation plans, which includes:

- (a) The responsibilities of the persons tasked with executing the plan;
- (b) A description of the POU’s wildfire mitigation preventative strategies and programs;
- (c) A description of the metrics the POU will use to evaluate the wildfire mitigation plan’s performance and discussion of how those metrics informed the current wildfire mitigation plan;
- (d) Protocols for disabling reclosers and de-energizing portions of the electrical system; and
- (e) Identification, description, and prioritization of all wildfire risks within the POU’s service territory.

SB 901 requires that POUs present their WMP at an appropriately noticed public meeting and receive public comment every year. The POU must also verify that the wildfire mitigation plan complies with all applicable rules, regulations, and standards. BEU will coordinate with the CAL Fire to review the WMP yearly verify the plan’s consistency with Banning’s Local Hazard Mitigation Plan.

POUs must also have their plan reviewed by a qualified independent evaluator to assess the comprehensiveness of the plan. The independent evaluator must then issue a report that the POU must make available on the POU's website, and the POU must present the report at a public meeting of the POU's governing board. This process will take place during the 1st quarter of 2020.

In 2019, two new bills (SB 1054 and SB 111) made additional major reforms relating to wildfires. As part of these reforms, SB 111 created a new state agency called the California Wildfire Safety Advisory Board ("CWSAB"). CWSAB is made up of seven members, five appointed by the Governor, one appointed by the Speaker of the Assembly, and one appointed by the Senate Rules Committee. The members of the board must be selected from industry experts, academics, and people with labor and workforce safety experience. At least three members must be experienced in the safe operation, design, and engineering of electrical infrastructure.

SB 1054 requires that all POUs must submit their wildfire prevention and mitigation plans to CWSAB by July 1, 2020 and submit an updated WMP to CWSAB every three years following this date. CWSAB will then review the POU plans and will provide comments and advisory opinions on the content and sufficiency of the plan.

Pursuant to Public Utilities Code, Section 8387, BEU has prepared the required Wildfire Mitigation Plan and has presented the plan at a noticed public meeting and accepted public comment. BEU will continue to the process of obtaining a plan reviewed by a qualified independent evaluator to assess the comprehensiveness of the plan along with participating in community outreach activities to deliver information and answer questions. Submission of to the WMP to CWSAB will occur on or before July 1, 2020. Any updates to Version 1.0 of the WMP will be presented the City Council prior to submission to CWSAB.

FISCAL IMPACT:

Additional costs of meeting the state requirements are unknown but could be substantial depending upon the degree of fire mitigation efforts needed to protect residents and property throughout the service territory.

ATTACHMENTS:

1. Resolution 2019-132 (Original Project Authorization)
<https://banningca.gov/DocumentCenter/View/6714/Reso-2019-132---BEU-WMP>
2. Banning Electric Utility Wildfire Mitigation Plan Version 1.0
<https://banningca.gov/DocumentCenter/View/6715/Banning-Electric-Utility-Wildfire-Mitigation-Plan-Draft-Version-10>
3. Banning Fire Map
<https://banningca.gov/DocumentCenter/View/6716/Banning-Fire-Map>
4. SCE PSPS Map
<https://banningca.gov/DocumentCenter/View/6717/SCE-PSPS-Map>

Approved by:

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Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Tom Miller, Electric Utility Director

MEETING DATE: December 10, 2019

SUBJECT: Resolution 2019-147, Mapping Pilot Project – Amending Acculine Consulting Contract

RECOMMENDED ACTION:

Staff recommends amending the Acculine Consulting, LLC Contract for the pilot mapping project to be more design-build based in order to capture initial and ongoing software savings and provide greater flexibility in designing workflow processes customized for Banning Electric Utility.

BACKGROUND:

On June 11, 2019, the City of Banning City Council adopted Resolution 2019-71 authorizing the electric utility director to complete a pilot mapping project including: project development, software, hardware, and contingency utilizing specific vendors. The total authorized expenditures for the pilot project are \$159,500. Expenditures to date are \$25,500 to Reavis Code for hardware used to collect geospatial coordinates and export into the WindMil mapping database.

JUSTIFICATION:

Staff and Acculine Consulting (Jody Wheeler and Dave Grayson) have had several discussions about the mapping pilot project and transitioning the pilot into ongoing efficient workflows and project management. As a result, Jody and Dave came onsite to further survey our existing facilities, review construction standards, observe process workflows, and develop an overall transition plan maximizing the Milsoft WindMil Software as the mapping base.

The results of the onsite discovery and project kick-off comes the recommendation to transfer pilot project funds to Acculine Consulting for customized workflow design, development, and implementation.

In effect, Acculine will utilize one software package to accomplish the pilot project instead of two. The savings will be redirected to software customization and field inventorying.

FISCAL IMPACT:

No additional fiscal impact for the pilot mapping project.

ATTACHMENTS:

1. Resolution 2019-71 (Original Project Authorization)
<https://banningca.gov/DocumentCenter/View/6689/Reso-No-2019-71>
2. Resolution 2019-147 (Redirecting Project Funds to Acculine Consulting)
<https://banningca.gov/DocumentCenter/View/6690/Resolution-2019-147>

Approved by:

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Douglas Schulze, ICMA-CM
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Tom Miller, Electric Utility Director
Carla Young, Business Support Manager

MEETING DATE: December 10, 2019

SUBJECT: Adopt Resolution 2019-148, Establishing a Pre-Qualified Electrical Engineering Vendor List for the Remainder of Fiscal Year 2020 through Fiscal Year 2022

RECOMMENDED ACTION:

The City Council:

- 1) Adopt Resolution 2019-148, establishing a pre-qualified electrical engineering vendor list for various engineering services for the remainder of Fiscal Year (FY) 2020 through FY 2022.
- 2) Allow staff to award professional electric engineering services from the pre-qualified vendor list in a cumulative amount not to exceed \$250,000 per fiscal year.

BACKGROUND:

In March of 2019, Banning Electric Utility (BEU) ended its Electrical Engineering contract with Leidos Engineering, LLC. A Request for Qualifications was released through PlanetBids on August 8, 2019. Through this release, two hundred forty-one (241) City registered vendors as well as five hundred (500) external vendors were directly notified. The request for qualifications closed on August 22, 2019 with the five (5) consultants listed below responding and submitting proposals by the deadline. Four (4) out of the five (5) consultants were responsive to the City's requirements.

	CONSULTANTS	AVERAGE SCORE
1.	Kewo Engineering Corporation	85.50
2.	EN Engineering LLC	83.50
3.	Electric Power Systems Intl, Inc.	79.33
4.	Cornerstone C. C. H. D.	61.83

An evaluation committee consisting of three (3) city staff members was assembled to evaluate the proposals based on qualifications and experience of the proposed team; ability to provide the requested engineering services and rates.

The services that were requested in the RFQ include:

1. Provide as needed engineering and design.
2. Availability/access to California Licensed P.E.-E.E.
3. Engineering and construction management services to support the electric system capital improvement program.
4. Complete start to finish construction
5. Environmental review and permitting.
6. Procurement support services for materials, equipment and construction services.
7. Field inspection services.
8. Materials testing during construction.
9. Surveying services.

Based on the review of the evaluation committee members and the overall ranking of each firm (see table above) based on specific services, staff is recommending that an Engineering Services Panel be established.

JUSTIFICATION:

Banning Electric Utility's previous electrical engineering services contract has expired. BEU is in need of continuing professional electrical engineering services to complete several capital improvement projects. Establishing a pre-qualified vendor list would expedite the process in obtaining these services, as well as, reduce the time spent by City staff preparing and evaluating formal RFPs and proposals.

FISCAL IMPACT:

Cumulative funding for Electrical Engineering Services is available in BEU's Capital Improvement Fund projects. The funding of on-call engineering services contracts will be determined at the time of contract award for each specific project and shall be awarded per the City's purchasing policies. Engineering services will be awarded at \$250,000, or less, per project contract with a combined fiscal year total not to exceed \$250,000.

ALTERNATIVES:

Do not approve as presented and staff would proceed with a Request for Proposals for individual projects in order to obtain the required services.

ATTACHMENTS:

1. Resolution 2019-148
<https://banningca.gov/DocumentCenter/View/6691/Resolution-2019-148--Electrical-Engineering-Services>
2. Request for Qualifications (RFQ) dated August 8, 2019
https://banningca.gov/DocumentCenter/View/6692/2019-148_RFQ-19-044--Engineering-Services-for-Capital-Improvements_Rev3-0000000

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Director of Public Works
Holly Stuart, Management Analyst

MEETING DATE: December 10, 2019

SUBJECT: Notice of Completion for Project No. 2019-02, "Bird Abatement, Clean-up and Netting Services"

RECOMMENDED ACTION:

That the City Council accept Project No. 2019-02, "Bird Abatement, Clean-up and Netting Services" as complete, authorize the City Manager or designee to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

BACKGROUND:

On June 30, 2019, the City awarded an agreement to Western Exterminator Company (DBA Rentokil) for Project No. 2019-02, "Bird Abatement, Clean-up and Netting Services". The project was approved in the amount of \$12,845.

The scope of work included all parts, labor, equipment and materials required for the bird abatement, clean-up, and installation of a netting/deterrent system provided to the Banning Police Station located at 125 East Ramsey Street.

JUSTIFICATION:

The lowest qualified bidder, Western Exterminator Company, was awarded the contract and work was completed in July of 2019. Public Works staff verified through inspections that the workmanship, materials, and procedures were satisfactory and that the contractor had met the required contract obligations.

FISCAL IMPACT:

December 10, 2019

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The project was completed in the amount of \$12,845 and was funded by the General/Police Department Fund, Account No. 001-2200-421.23-24 (Pest Eradication Service).

ALTERNATIVE:

City Council may elect to not accept the project as complete which would keep the project open and prevent the release of retention funds to the contractor.

ATTACHMENT:

1. Notice of Completion

<https://banningca.gov/DocumentCenter/View/6693/Attachment-1-Notice-of-Completion-Rentokil>

Approved by:

A handwritten signature in blue ink, appearing to read "DS".

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Art Vela, Director of Public Works
MEETING DATE: December 10, 2019
SUBJECT: Adopt Resolution 2019-149, Approving Final Tract Map 35967-1

RECOMMENDED ACTION:

That the City Council adopt Resolution 2019-149 approving Final Tract Map 35967-1 and release the map for recordation; and authorize staff to sign the Final Tract Map; and accept the Performance and Labor and Material Bonds for public improvements.

BACKGROUND:

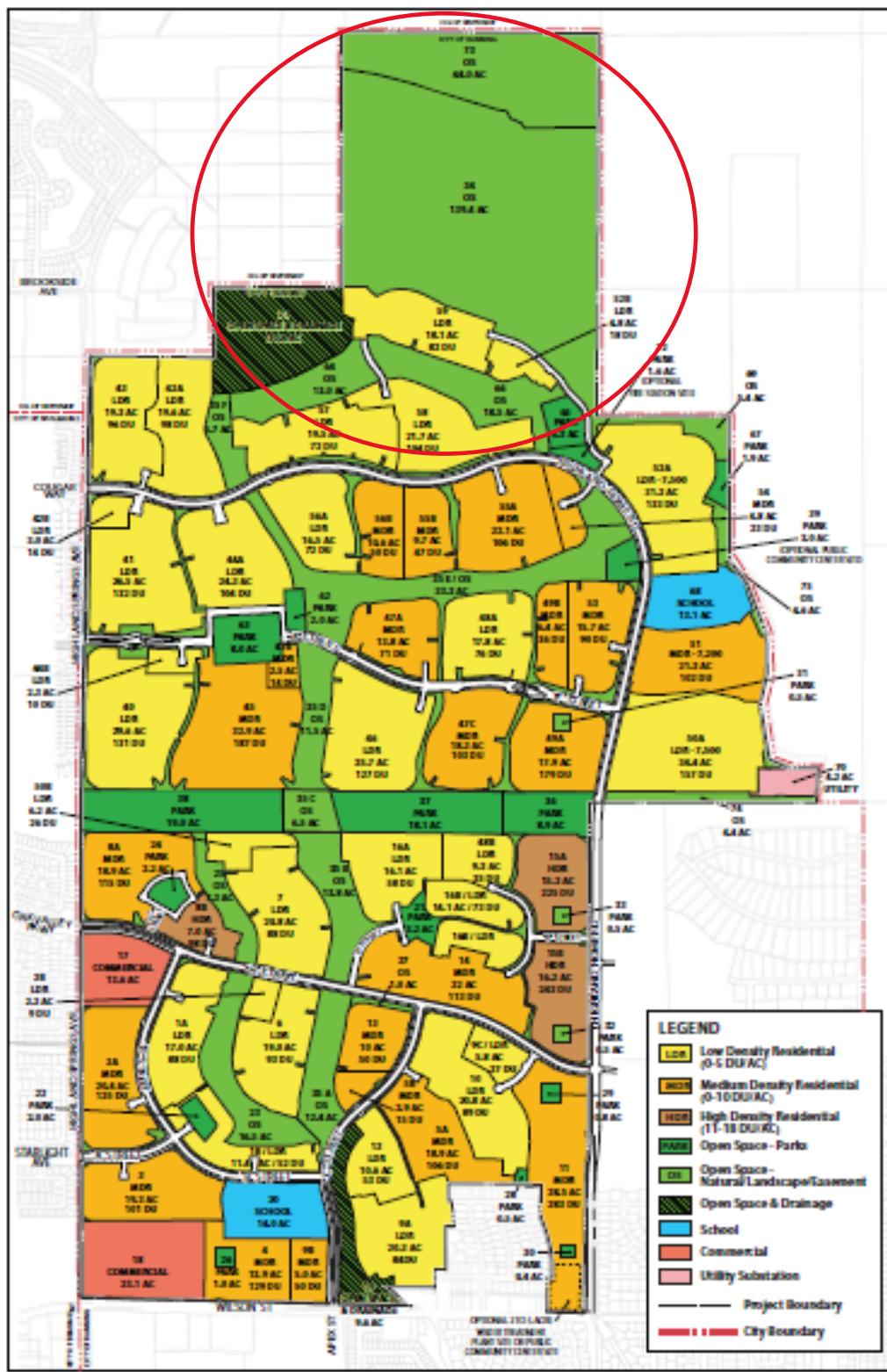
Tentative Tract Map (TTM) 35967 was approved by Planning Commission on May 3, 2017 and by City Council on July 30, 2017. The proposed map implements the Atwell Specific Plan (also known as the Butterfield Specific Plan; "Specific Plan") originally approved by the City Council in March of 2012, with minor modifications approved in 2017 and provides for the development as allowed by the Specific Plan.

Final Tract Map (TM) 35967-1 will subdivide approximately 184.47 gross acres of vacant land into 2 numbered lots. Lot 1, located at the furthest northerly point of the Specific Plan is slated to remain as open space. The southerly one quarter of Lot 2 will be subdivided into residential lots at a later date and is projected to be one of the final phases of the Specific Plan. The project site is located north of Wilson Street and east of Highland Springs Avenue within the Specific Plan area; see Figures 1 for Specific Plan Land Use Map. The proposed TM 35967-1 is also attached to this report.

December 10, 2019

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Figure 1



There are no public improvements required for the approval of TM 35967-1 and therefore a Subdivision Improvement Agreement is not required. Upon approval the TM No. 35967-1 will be released for recordation with the Riverside County Recorder's Office.

JUSTIFICATION:

TM 35967-1 was checked by the City's consulting surveyor and was found to be technically correct and that it conforms to the requirements of the Subdivision Map Act. All conditions of approval required to be met prior to the recordation of TM 35967-1 have been met.

The City Engineer has verified that TM 35967-1 is in substantial conformance with approved TTM 35967.

FISCAL IMPACT:

There is no direct fiscal impact related to the approval of the Final Map.

ALTERNATIVE:

Do not approve TM 35967-1 and provide staff with additional direction.

ATTACHMENTS:

1. Resolution 2019-149

<https://banningca.gov/DocumentCenter/View/6694/Resolution-2019-149-Final-Tract-Map-35967-1>

Approved by:



Douglas Schulze

City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Art Vela, Director of Public Works
MEETING DATE: December 10, 2019
SUBJECT: Resolution 2019-150, Approving Final Tract Map 37298

RECOMMENDED ACTION:

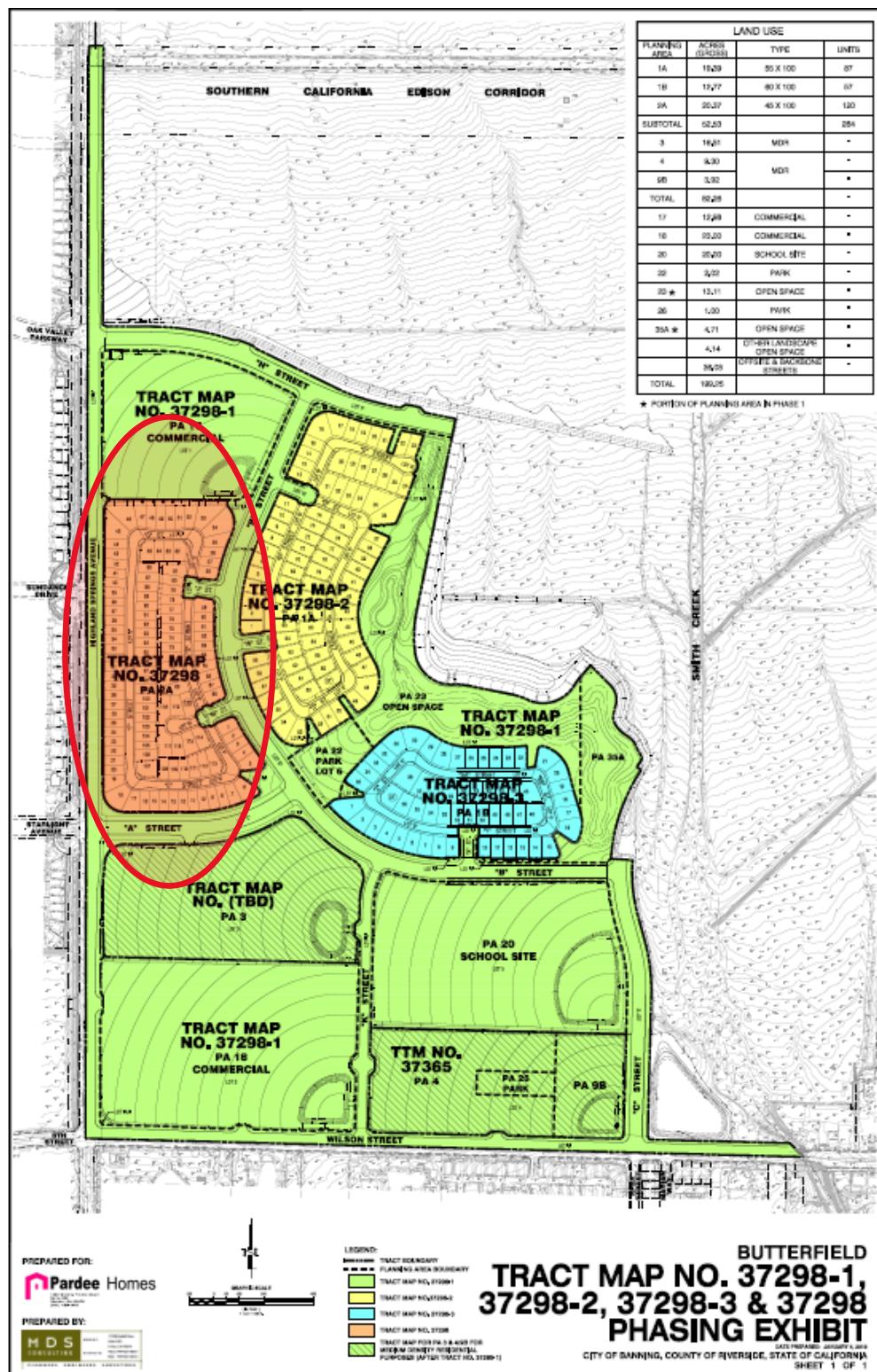
That City Council adopt Resolution 2019-150 approving Final Tract Map 37298 and release the map for recordation; and authorize staff to sign the Subdivision Improvement Agreement and Final Tract Map 37298; and accept the Performance and Labor and Material Bonds for public improvements.

BACKGROUND:

Tentative Tract Map (TTM) 37298 was approved by Planning Commission on June 6, 2018 and by City Council on July 10, 2018. The proposed map implements the Atwell Specific Plan (also known as the Butterfield Specific Plan; "Specific Plan") originally approved by the City Council in March of 2012, with minor modifications approved in 2017 and provides for the development as allowed by the Specific Plan.

Final Tract Map (TM) 37298 will subdivide approximately 20.4 gross acres of vacant land into 120 single family lots (medium density residential; MDR) and 7 letter lots for street and public utility purposes. The Project site is located north of Wilson Street and east of Highland Springs Avenue within the Specific Plan area; see Figures 1 for site plan of TTM 37298. The proposed TM 37298 is also attached to this report.

FIGURE 1



JUSTIFICATION:

The TM 37298 was checked by the City's consulting surveyor and was to be technically correct and that it conforms to the requirements of the Subdivision Map Act. All conditions of approval required to be met prior to the recordation of the Final Tract Map have been met.

The City Engineer has verified that TM 37298 is in substantial conformance with the approved tentative TM 37298.

FISCAL IMPACT:

There is no direct fiscal impact based on the approval of the TM 37298, however, the recordation of the map allows for the development of the project which will increase the assessed value of the properties resulting in an increase in property tax revenue. Additionally, the project will generate development impact fee revenues. The City's cost for processing the project will be offset by processing fees.

ALTERNATIVE:

Do not approve TM No. 37298 and provide staff with additional direction.

ATTACHMENTS:

1. Resolution 2019-150
<https://banningca.gov/DocumentCenter/View/6701/Resolution-2019-150-Approving-Final-Tract-Map-37298>
2. Subdivision Improvement Agreement
<https://banningca.gov/DocumentCenter/View/6702/Attachment-3-SIA-37298>

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Art Vela, Director of Public Works
MEETING DATE: December 10, 2019
SUBJECT: Resolution 2019-151, Approving Final Tract Map 37298-1

RECOMMENDED ACTION:

That the City Council adopt Resolution 2019-151, approving Final Tract Map 37298-1 and release the map for recordation; and authorize staff to sign the Subdivision Improvement Agreement and Final Tract Map; and accept the Performance and Labor and Material Bonds for public improvements.

BACKGROUND:

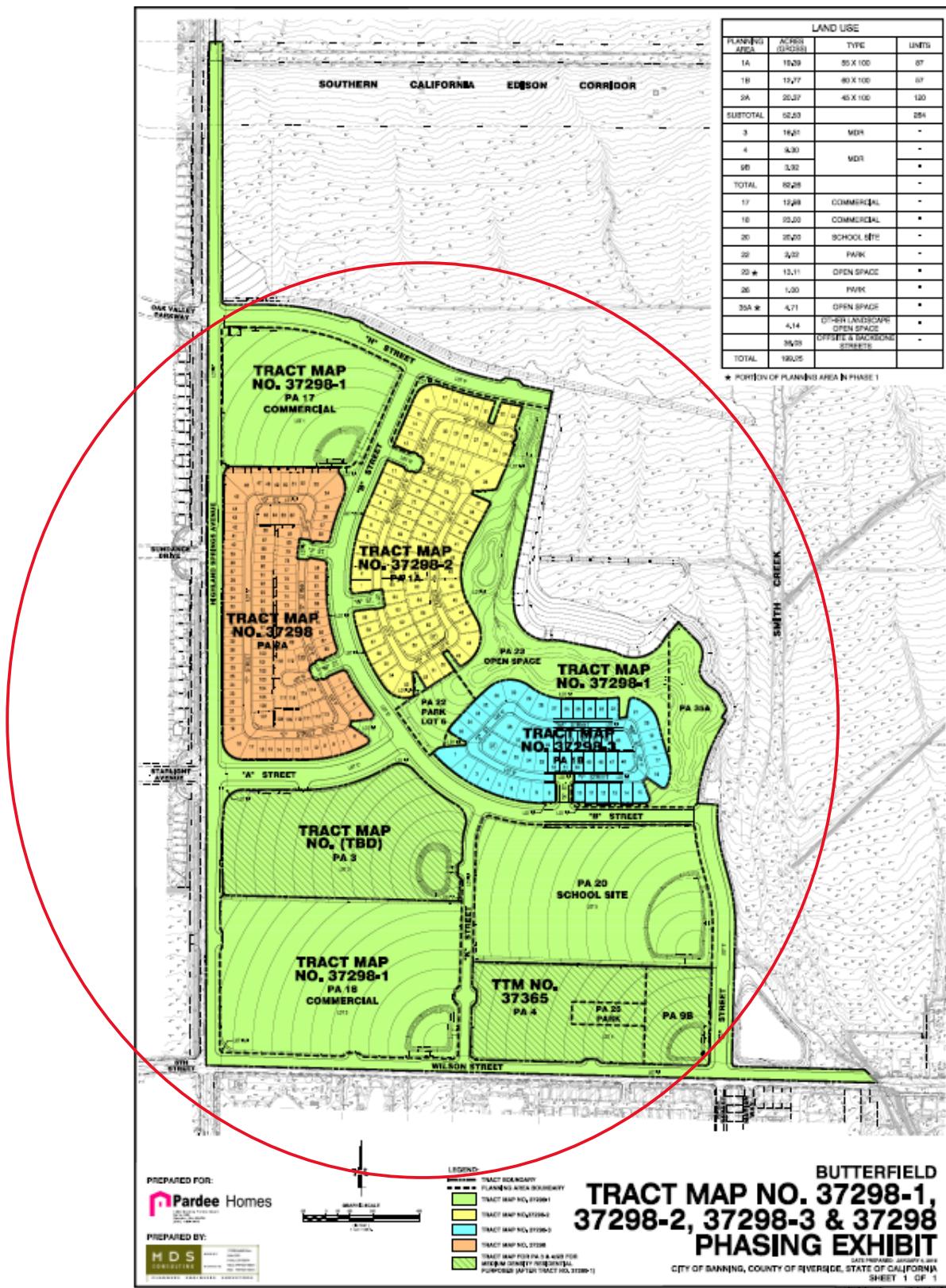
Tentative Tract Map (TTM) 37298 was approved by Planning Commission on June 6, 2018 and by City Council on July 10, 2018. The proposed map implements the Atwell Specific Plan (also known as the Butterfield Specific Plan; "Specific Plan") originally approved by the City Council in March of 2012, with minor modifications approved in 2017 and provides for the development as allowed by the Specific Plan.

Final Tract Map (TM) 37298-1 will subdivide approximately 199.22 gross acres of vacant land into 6 numbered lots for TMs 37298, 37298-2, 37298-3, 37365, a future school site and a commercial site and 29 lettered lots for street and public utility purposes and open space; TM 37298-1 does not create any residential lots rather it creates all of the backbone roadways, open space and large numbered lots that will be subdivided into smaller lots for residential development, with the exception of the school and commercial sites. The Project site is located north of Wilson Street and east of Highland Springs Avenue within the Specific Plan area; see Figures 1 for site plan of TTM 37298. The proposed TM 37298-1 is also attached to this report.

December 10, 2019

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Figure 1



As a condition of the development the property owner is required to sign a Subdivision Improvement Agreement and submit bonds to assure that the required improvements including street, sewer, water, non-potable water and storm drain improvements are constructed. Upon approval the TM 37298-1 map and Subdivision Improvement Agreement will be signed by the appropriate City representative and the TM 37298-1 map will be released for recordation with the Riverside County Recorder's Office. The required improvements bonds have been submitted and are held in the office of the City Clerk.

JUSTIFICATION:

TM 37298-1 was checked by the City's consulting surveyor and was found to be technically correct and conforms to the requirements of the Subdivision Map Act. All conditions of approval required to be met prior to the recordation of TM 37298-1 have been met.

The City Engineer has verified that the TM 37298-1 is in substantial conformance with the approved TTM 37298.

FISCAL IMPACT:

There is no direct fiscal impact based on the approval of TM 37298-1, however, the recordation of the map allows for the development of the project which will increase the assessed value of the properties resulting in an increase in property tax revenue. Additionally, the project will generate development impact fee revenues. The City's cost for processing the project will be offset by processing fees.

ALTERNATIVE:

Do not approve TM 37298-1 and provide staff with additional direction.

ATTACHMENTS:

1. Resolution 2019-151
<https://banningca.gov/DocumentCenter/View/6707/Resolution-2019-151-Approving-Final-Tract-Map-37298-1>
2. Subdivision Improvement Agreement
<https://banningca.gov/DocumentCenter/View/6708/Attachment-3-SIA-37298-1>

December 10, 2019

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Approved by:

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Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO:

CITY COUNCIL

FROM:

Douglas Schulze, City Manager

PREPARED BY:

Art Vela, Director of Public Works

MEETING DATE:

December 10, 2019

SUBJECT:

Adopt Resolution 2019-152, Approving Final Tract Map 37298-2

RECOMMENDED ACTION:

That the City Council adopt Resolution 2019-152, approving Final Tract Map 37298-2 and release the map for recordation; and authorize staff to sign the Subdivision Improvement Agreement and Final Tract Map; and accept the Performance and Labor and Material Bonds for public improvements.

BACKGROUND:

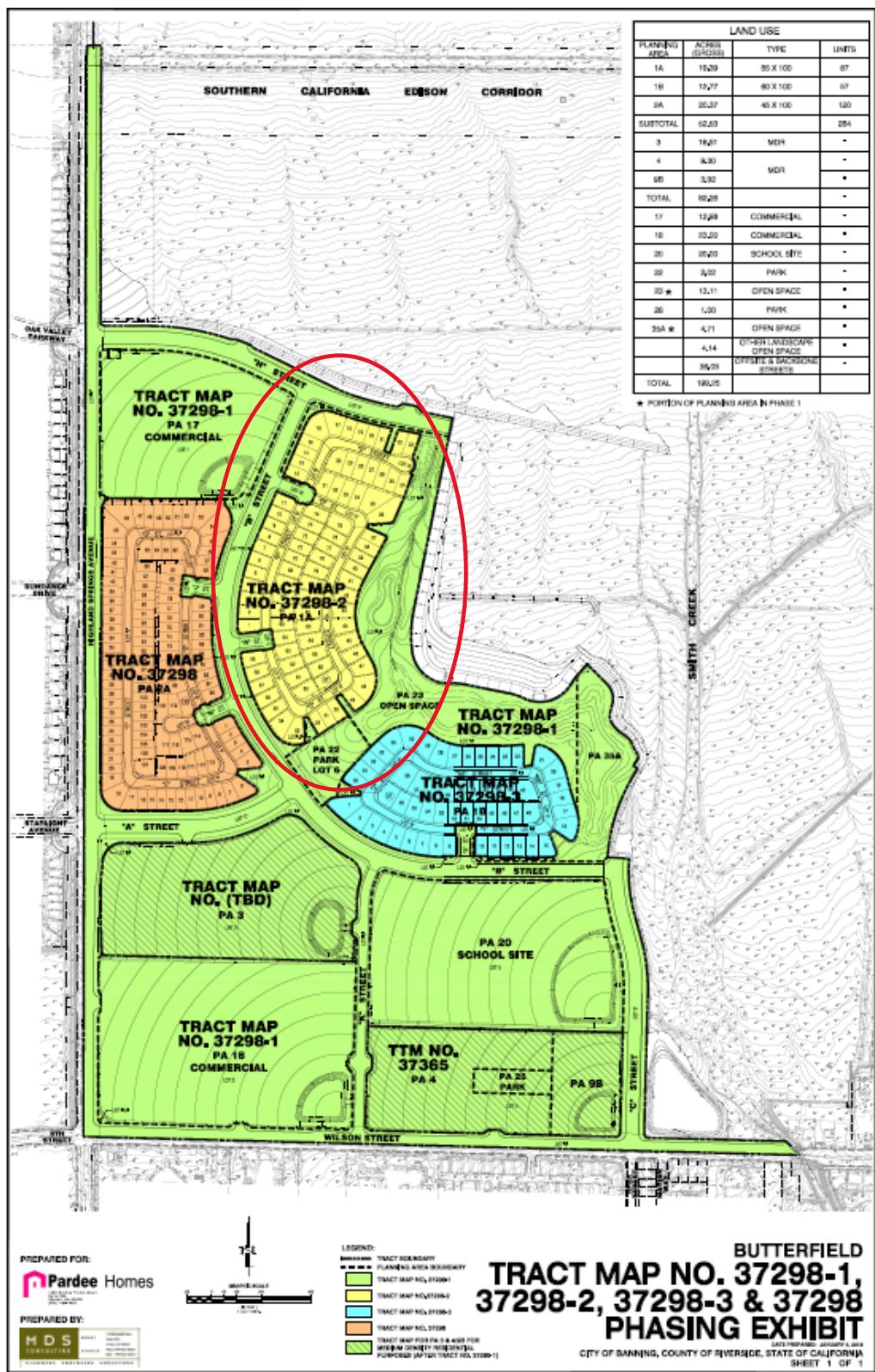
Tentative Tract Map (TTM) 37298 was approved by Planning Commission on June 6, 2018 and by City Council on July 10, 2018. The proposed map implements the Atwell Specific Plan (previously known as the Butterfield Specific Plan; "Specific Plan") originally approved by the City Council in March of 2012, with minor modifications approved in 2017 and provides for the development as allowed by the Specific Plan.

Final Tract Map (TM) 37298-2 will subdivide approximately 19.21 gross acres of vacant land into 86 single family lots (low density residential; LDR) and 7 lettered lots for street and public utility purposes. The Project site is located north of Wilson Street and east of Highland Springs Avenue within the Specific Plan area; see Figures 1 for site plan of TTM 37298. The proposed TM 37298-2 is also attached to this report.

December 10, 2019

Page 2 of 4

Figure 1



As a condition of the development the property owner is required to sign a Subdivision Improvement Agreement and submit improvement bonds to assure that the required improvements including street, sewer, water and storm drain improvements are constructed. Upon approval the TM 37298-2 map and Subdivision Improvement Agreement will be signed by the appropriate City representative and the TM 37298-2 map will be released for recordation with the Riverside County Recorder's Office. The required improvements bonds have been submitted and are held in the office of the City Clerk.

JUSTIFICATION:

TM 37298-2 was checked by the City's consulting surveyor and was found to be technically correct and that it conforms to the requirements of the Subdivision Map Act. All conditions of approval required to be met prior to the recordation of TM 37298-2 have been met.

The City Engineer has verified that TM 37298-2 is in substantial conformance with the approved TTM 37298.

FISCAL IMPACT:

There is no direct fiscal impact based on the approval of TM 37298-2, however, the recordation of the map allows for the development of the project which will increase the assessed value of the properties resulting in an increase in property tax revenue. Additionally, the project will generate development impact fee revenues. The City's cost for processing the project will be offset by processing fees.

ALTERNATIVE:

Do not approve TM 37298-2 and provide staff with additional direction.

ATTACHMENTS:

1. Resolution 2019-152
<https://banningca.gov/DocumentCenter/View/6724/Resolution-2019-152-Approving-FinalTract-Map-37298-2>
2. Subdivision Improvement Agreement
<https://banningca.gov/DocumentCenter/View/6725/Attachment-3-SIA-37298-2>

December 10, 2019

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Approved by:

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Douglas Schulze
City Manager



**CITY OF BANNING
CITY COUNCIL REPORT**

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

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

MEETING DATE: **December 10, 2019**

SUBJECT: **Adopt Resolution 2019-153, Approving Final Tract Map 37298-3**

RECOMMENDED ACTION:

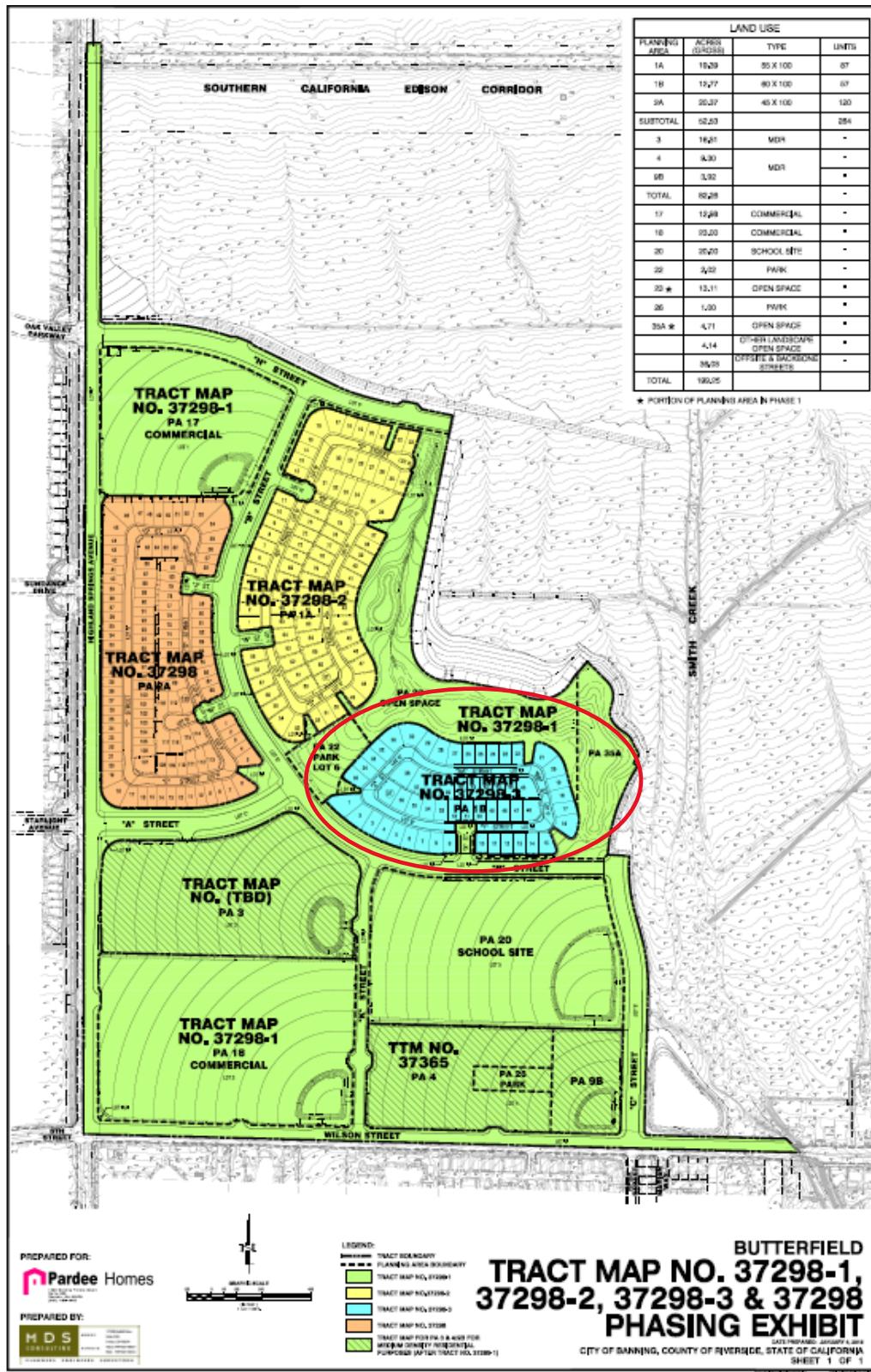
That City Council adopt Resolution 2019-153 approving Final Tract Map 37298-3 and release the map for recordation; and authorize staff to sign the Subdivision Improvement Agreement and Final Tract Map; and accept the Performance and Labor and Material Bonds for public improvements.

BACKGROUND:

Tentative Tract Map (TTM) 37298 was approved by Planning Commission on June 6, 2018 and by City Council on July 10, 2018. The proposed map implements the Atwell Specific Plan (also known as the Butterfield Specific Plan; "Specific Plan") originally approved by the City Council in March of 2012, with minor modifications approved in 2017 and provides for the development as allowed by the Specific Plan.

Final Tract Map (TM) 37298-3 will subdivide approximately 12.65 gross acres of vacant land into 57 single family lots (low density residential; LDR) and 5 lettered lots for street and public utility purposes. The project site is located north of Wilson Street and east of Highland Springs Avenue within the Specific Plan area; see Figures 1 for site plan of TTM 37298. The proposed TM 37298-3 is also attached to this report.

Figure 1



As a condition of the development the property owner is required to sign a Subdivision Improvement Agreement and submit bonds to assure that the required improvements including street, sewer, water and storm drain improvements are constructed. Upon approval the TM 37298-3 map and Subdivision Improvement Agreement will be signed by the appropriate City representative and the TM 37298-3 map will be released for recordation with the Riverside County Recorder's Office. The required improvements bonds have been submitted and are held in the office of the City Clerk.

JUSTIFICATION:

The TM 37298-3 was checked by the City's consulting surveyor and was found to be technically correct and that it conforms to the requirements of the Subdivision Map Act. All conditions of approval required to be met prior to the recordation of TM 37298-3 have been met.

The City Engineer has verified that TM 37298-3 is in substantial conformance with the approved TTM 37298.

FISCAL IMPACT:

There is no direct fiscal impact based on the approval of TM 37298-3, however, the recordation of the map allows for the development of the project which will increase the assessed value of the properties resulting in an increase in property tax revenue. Additionally, the project will generate development impact fee revenues. The City's cost for processing the project will be offset by processing fees.

ALTERNATIVE:

Do not approve TM 37298-3 and provide staff with additional direction.

ATTACHMENTS:

1. Resolution 2019-153
<https://banningca.gov/DocumentCenter/View/6731/Resolution-2019-153-Approving-Final-Tract-Map-37298-3>
2. Subdivision Improvement Agreement
<https://banningca.gov/DocumentCenter/View/6732/Attachment-3-SIA-37298-3>

Approved by:

A handwritten signature in blue ink, appearing to read "DS".

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Art Vela, Director of Public Works
MEETING DATE: December 10, 2019
SUBJECT: Adopt Resolution 2019-154, Approving Final Tract Map 37474

RECOMMENDED ACTION:

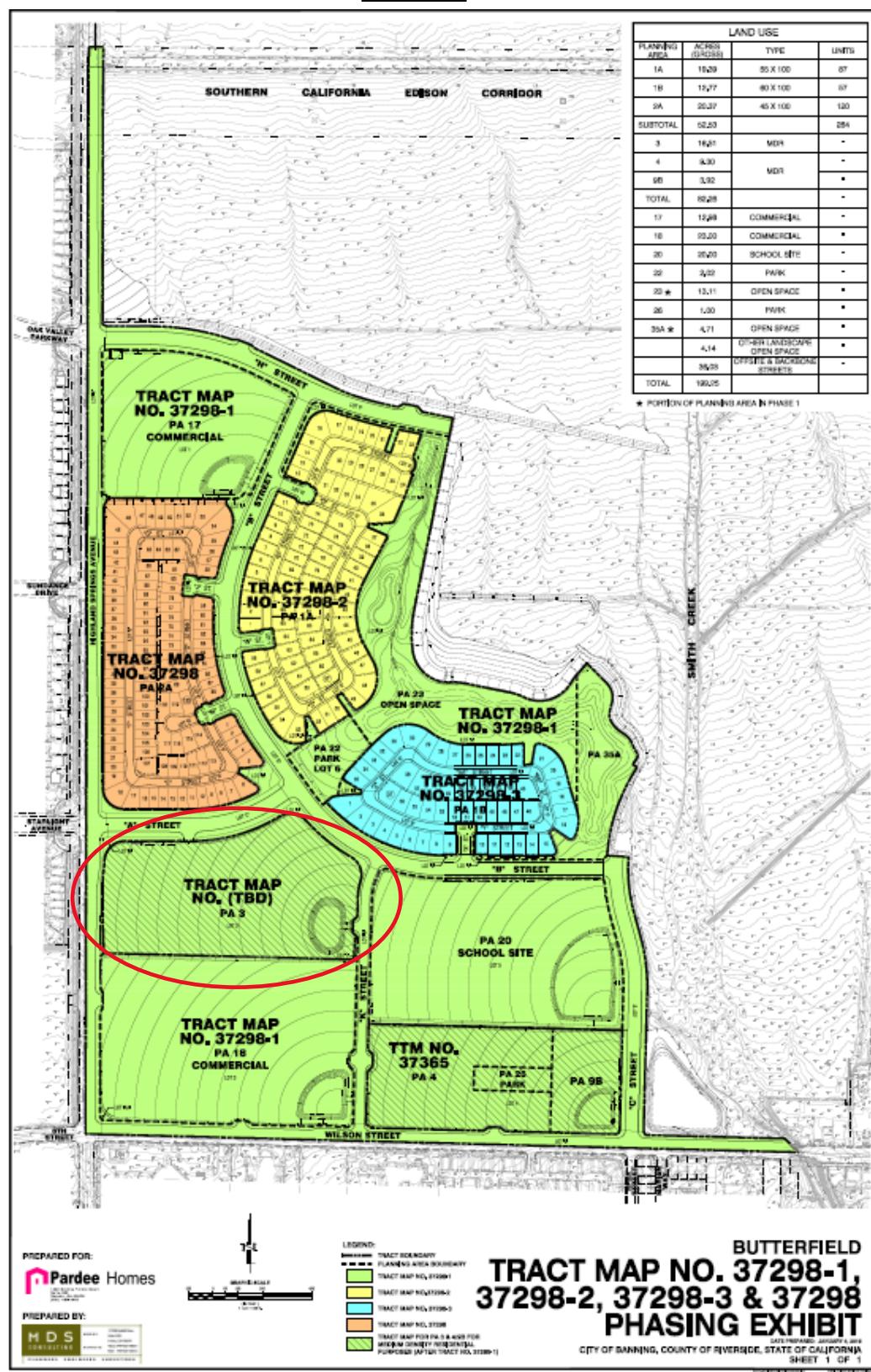
That the City Council adopt Resolution 2019-154, approving Final Tract Map 37474 and release the map for recordation; and authorize staff to sign the Subdivision Improvement Agreement and Final Tract Map; and accept the Performance and Labor and Material Bonds for public improvements.

BACKGROUND:

Tentative Tract Map (TTM) 37298 was approved by Planning Commission on June 6, 2018 and by City Council on July 10, 2018. The proposed map implements the Atwell Specific Plan (also known as the Butterfield Specific Plan; "Specific Plan") originally approved by the City Council in March of 2012, with minor modifications approved in 2017 and provides for the development as allowed by the Specific Plan. Subsequently, TTM 37474 was approved by Planning Commission and City Council on June 5, 2019 and June 25, 2019, respectively.

Final Tract Map (TM) 37474 will subdivide approximately 16.49 gross acres of vacant land into 109 single family residential (medium density residential; MDR), and 11 lettered lots for street and public utility purposes and open space. The Project site is located north of Wilson Street and east of and along Highland Springs Avenue within the Specific Plan area; see Figures 1 for site plan of TTM 37298. The proposed TM 37474 is also attached to this report.

Figure 1



As a condition of the development the property owner is required to sign a Subdivision Improvement Agreement and submit bonds to assure that the required improvements including street, sewer, water and storm drain improvements are constructed. Upon approval the TM 37474 and Subdivision Improvement Agreement will be signed by the appropriate City representative and the TM 37474 map will be released for recordation with the Riverside County Recorder's Office. The required improvements bonds have been submitted and are held in the office of the City Clerk.

JUSTIFICATION:

TM 37474 was checked by the City's consulting surveyor and was found to be technically correct and that it conforms to the requirements of the Subdivision Map Act. All conditions of approval required to be met prior to the recordation of TM 37474 have been met.

The City Engineer has verified that the TM 37474 is in substantial conformance with the approved TTM 37474.

FISCAL IMPACT:

There is no direct fiscal impact based on the approval of the TM 37474, however, the recordation of the map allows for the development of the project which will increase the assessed value of the properties resulting in an increase in property tax revenue. Additionally, the project will generate development impact fee revenues. The City's cost for processing the project will be offset by processing fees.

ALTERNATIVE:

Do not approve TM 37474 and provide staff with additional direction.

ATTACHMENTS:

1. Resolution 2019-154
<https://banningca.gov/DocumentCenter/View/6737/Resolution-2019-154-Approving-Final-Tract-Map-37474>
2. Subdivision Improvement Agreement
<https://banningca.gov/DocumentCenter/View/6738/Attachment-3-SIA-37474>

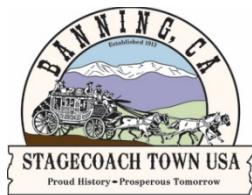
December 10, 2019

Page 4 of 4

Approved by:

A handwritten signature in blue ink, appearing to read "DS".

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Director of Public Works

MEETING DATE: December 10, 2019

SUBJECT: Adopt Resolution 2019-155, Approving Final Tract Map 37365

RECOMMENDED ACTION:

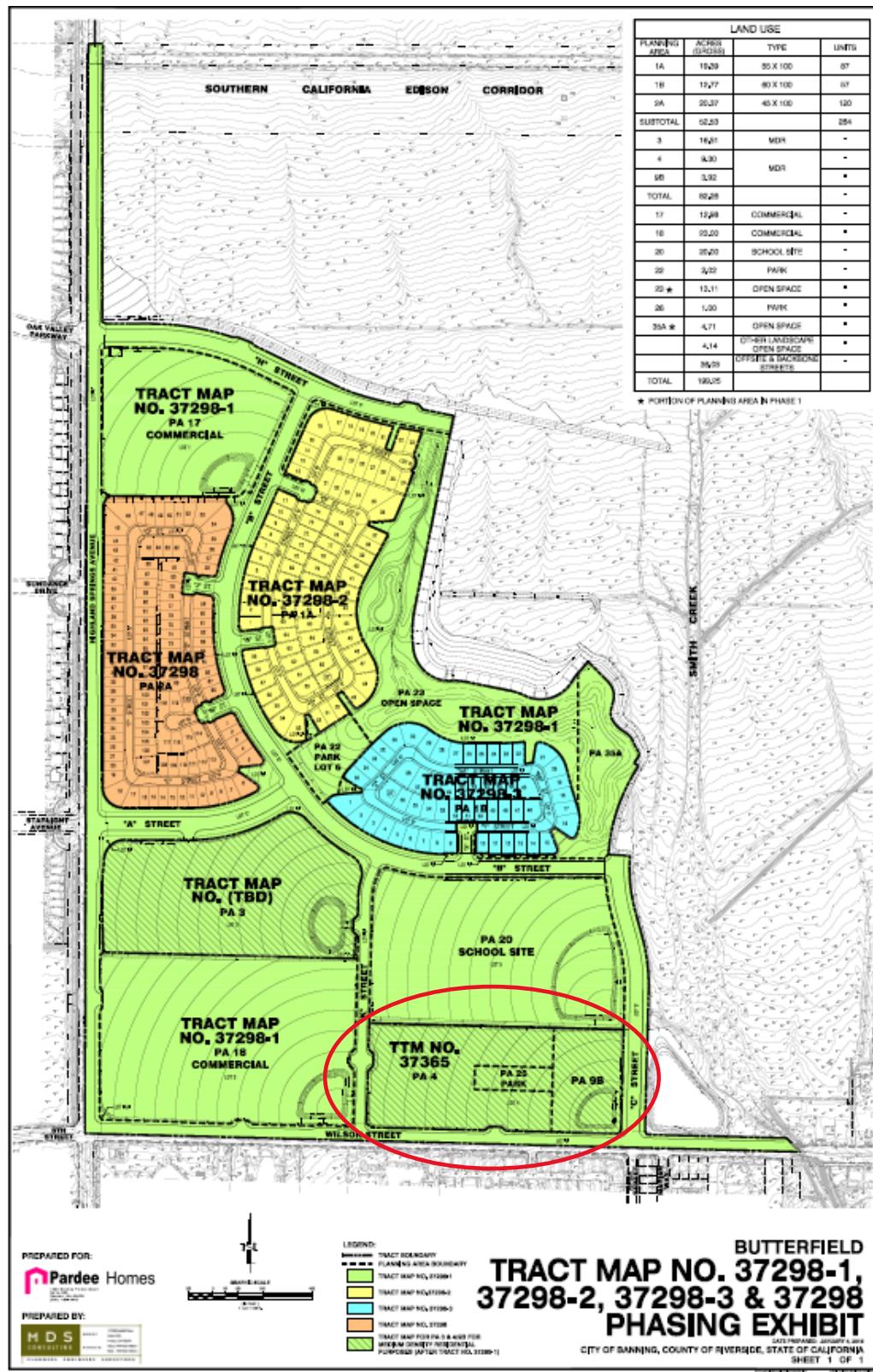
That the City Council adopt Resolution 2019-155, approving Final Tract Map 37365 and release the map for recordation; and authorize staff to sign the Subdivision Improvement Agreement and Final Tract Map; and accept the Performance and Labor and Material Bonds for public improvements.

BACKGROUND:

Tentative Tract Map (TTM) 37298 was approved by Planning Commission on June 6, 2018 and by City Council on July 10, 2018. The proposed map implements the Atwell Specific Plan (also known as the Butterfield Specific Plan; "Specific Plan") originally approved by the City Council in March of 2012, with minor modifications approved in 2017 and provides for the development as allowed by the Specific Plan.

Final Tract Map (TM) 37365 will subdivide approximately 14.21 gross acres of vacant land into 18 number lots for approximately 107 single family residential detached condo units (medium density residential; MDR), one letter lot for a pool complex and 12 lettered lots for street and public utility purposes and open space. The Project site is located north of and along Wilson Street and east of Highland Springs Avenue within the Specific Plan area; see Figures 1 for site plan of TTM 37298. The proposed TM 37365 is also attached to this report.

Figure 1



As a condition of the development the property owner is required to sign a Subdivision Improvement Agreement and submit bonds to assure that the required improvements including street, sewer, water and storm drain improvements are constructed. Upon approval the TM 37365 and Subdivision Improvement Agreement will be signed by the appropriate City representative and the TM 37365 will be released for recordation with the Riverside County Recorder's Office. The required improvements bonds have been submitted and are held in the office of the City Clerk.

JUSTIFICATION:

TM 37365 was checked by the City's consulting surveyor and was found to be technically correct and that it conforms to the requirements of the Subdivision Map Act. All conditions of approval required to be met prior to the recordation of the TM 37365 have been met.

The City Engineer has verified that TM 37365 is in substantial conformance with the approved TM 37298.

FISCAL IMPACT:

There is no direct fiscal impact based on the approval of the Final Map, however, the recordation of the map allows for the development of the project which will increase the assessed value of the properties resulting in an increase in property tax revenue. Additionally, the project will generate development impact fee revenues. The City's cost for processing the project will be offset by processing fees.

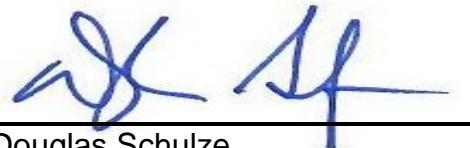
ALTERNATIVE:

Do not approve TM 37365 and provide staff with additional direction.

ATTACHMENTS:

1. Resolution 2019-155 <https://banningca.gov/DocumentCenter/View/6740/Attachment-1-Resolution-2019-155-TM-37365>
2. TM 37365 <https://banningca.gov/DocumentCenter/View/6741/Attachment-2-Tract-Map-37365>
3. Subdivision Improvement Agreement
<https://banningca.gov/DocumentCenter/View/6739/Attachment-3-SIA-37365>

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Matthew Hamner, Chief of Police
Phil Holder, Captain

MEETING DATE: December 10, 2019

SUBJECT Resolution 2019-156, Authorizing the Police Department to use Innovative Emergency Equipment to Outfit Three (3) New Police Vehicles with Emergency and Safety Equipment.

RECOMMENDATION:

The City Council adopt Resolution 2019-156, a Resolution of the City of Banning, California, authorizing the police department to utilize Innovative Emergency Equipment to outfit three (3) new patrol vehicles with emergency and safety equipment in an amount not to exceed \$40,248, under Riverside County Contract #SHARC-005516-006-09/24. The project amount includes a 5% contingency.

JUSTIFICATION:

The new patrol vehicles will require the purchase and installation of equipment necessary for them to be deployed in the field. This equipment includes but is not limited to radios, computers, cameras, emergency lights, gun racks, seat cages, and other associated equipment.

BACKGROUND:

On November 12, 2019, the Banning City Council adopted Resolution 2019-143 for the purchase of three (3) new police vehicles. The police department will take possession of these vehicles in the coming month.

The contract the Banning Police Department is requesting to "Piggy Back" on for the installation of the required emergency and safety equipment was originally adopted on September 9, 2016 by the Riverside County Board of Supervisors and more recently extended on November 19, 2019 by the Riverside County Board of Supervisors through September 30, 2024.

FISCAL IMPACT:

The cost for equipping the new vehicles and removing equipment from the old vehicles will be covered by existing funds in the Supplemental Law Enforcement Services Allocation (SLESA) account.

OPTIONS:

1. Adopt Resolution 2019-156
2. Reject Resolution 2019-156 and provide direction to staff.

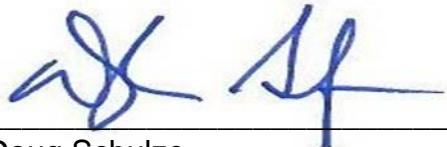
STRATEGIC PLAN OBJECTIVE:

This request supports the City's strategic goal related to "Public Health and Safety".

ATTACHMENT:

1. Resolution 2019-156 <https://banningca.gov/DocumentCenter/View/6735/Att-1---RESO-2019-156>
2. Resolution 2019-143 <https://banningca.gov/DocumentCenter/View/6736/Att-2---2019-143>
3. Riverside County Contract (SHARC-005516-006-09/24)
<https://banningca.gov/DocumentCenter/View/6733/Att-3---RivCo-SHARC-05516-006-09-24>
4. Innovative Emergency Equipment Quote
<https://banningca.gov/DocumentCenter/View/6734/Att-4---Innovative-Emergency-Equipment-Quote>

Approved by:



Doug Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Matthew Hamner, Chief of Police
Phil Holder, Captain

MEETING DATE: December 10, 2019

SUBJECT: Resolution 2019-157, Authorizing the Police Department to Purchase one (1) 2020 Chevrolet Colorado Truck through Courtesy Chevrolet under City of Banning IFB No. 19-050 for use by the Banning Code Compliance Department.

RECOMMENDATION:

The City Council discuss and consider adopting Resolution 2019-157, a Resolution of the City of Banning, California, authorizing the police department to purchase one (1) 2020 Chevrolet Colorado Truck through Courtesy Chevrolet in an amount not to exceed \$28,722, under City of Banning IFB No 19-050 for use by the Banning Code Compliance Department.

JUSTIFICATION:

The vehicle will be utilized by Banning's Code Compliance Department on a daily basis as they conduct their daily activities in the City of Banning. The new vehicle is necessary to accommodate the work load of four (4) code compliance officers, two of which have been added to the department in the last year.

BACKGROUND:

On October 25, 2019, the City of Banning Purchasing Department entered an Invitation for Bids (IFB) on the PlanetBids website for a 2020 Chevrolet Colorado Truck, with an advertised closing date of November 7, 2019. On November 8, 2019, the purchasing department reviewed 7 (seven) submitted bids and found 6 (six) of them were appropriately responsive to the bid. One vendor did not submit all the required documents, as requested. Based on the submitted proposals, Courtesy Chevrolet had the lowest bid at \$28,722.

FISCAL IMPACT:

The cost of purchasing the new vehicle will be covered by existing funds in the Measure J Fund. Subsequently, no general funds are required for this activity.

OPTIONS:

1. Adopt Resolution 2019-157
2. Reject Resolution 2019-157 and provide direction.

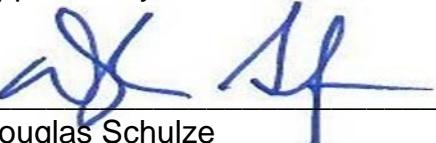
STRATEGIC PLAN OBJECTIVE:

This request supports the City's strategic goal related to "Public Health and Safety".

ATTACHMENTS:

1. Resolution 2019-157 <https://banningca.gov/DocumentCenter/View/6729/Att-1---RESO-2019-157--Code-Compliance-Vehicle-Purchase>
2. City of Banning Invitation for Bids IFB No. 19-050
<https://banningca.gov/DocumentCenter/View/6730/Att-2---IFB-19-050-Specifications>
3. Courtesy Chevrolet Documents
<https://banningca.gov/DocumentCenter/View/6727/Att-3---Courtesy-Chevrolet>
4. Vendor Bid Results for IFB No. 19-050
<https://banningca.gov/DocumentCenter/View/6728/Att-4---Vendor-Bids-Results-IFB-No-19-050>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Todd Hopkins, Division Chief

MEETING DATE: December 10, 2019

SUBJECT: **Resolution 2019-158, Adding Health and Safety Code 13146.4 which requires the Fire Chief to report to the City Council the status of the State Mandated Fire Department inspections required in the City**

RECOMMENDED ACTION:

City Council adopt Resolution 2019-158, acknowledging receipt of a report made by the Fire Chief of the Riverside County Fire Department regarding compliance with the annual inspection of certain occupancies pursuant to sections 13146.2 and 13146.3 of the California Health and Safety Code.

BACKGROUND:

This year SB1205 came into effect adding Health and Safety Code 13146.4 which requires the Fire Chief to report to the City Council the status of the State Mandated Fire Department inspections required in the City. Generally speaking, these include the schools, nursing homes, apartments and hotels. These State Mandated inspections do not include all regular businesses in the City (commonly referred to as Business or B Annuals).

JUSTIFICATION:

California Health & Safety Code Section 13146.4 was added in 2018 and became effective on January 1, 2019. California Health & Safety Code Section 13146.4 requires all fire departments, including the Riverside County Fire Department, that provide fire protection services to report annually to its administering authority on its compliance with Health & Safety Code sections 13146.2 and 13146.3. California Health & Safety Code Section 13146.2 and 13146.3 requires all fire departments, including the Riverside County Fire Department, that provide fire protection services to perform annual inspections in every building used as a public or private school, hotel, motel, lodging

house, apartment house, and certain residential care facilities for compliance with building standards, as provided. The Council of the City of Banning intends this Resolution to fulfill the requirements of the California Health & Safety Code 13146.4 regarding acknowledgment of the Riverside County Fire Department's compliance with California Health and Safety Code Sections 13146.2 and 13146.3.

FISCAL IMPACT:

None

OPTIONS:

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

ATTACHMENTS:

1. Resolution 2019-158

[https://banningca.gov/DocumentCenter/View/6726/Attachment-1-Reso-2019-158---
Draft-Fiscal-Year-2018-2019-SB1205](https://banningca.gov/DocumentCenter/View/6726/Attachment-1-Reso-2019-158---Draft-Fiscal-Year-2018-2019-SB1205)

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING BANNING UTILITY AUTHORITY REPORT

TO: **BANNING UTILITY AUTHORITY**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Art Vela, Public Works Director/City Engineer**
Jennifer Jackson, Management Analyst

MEETING DATE: **December 10, 2019**

SUBJECT: **Resolution 2019-25 UA, Approving the Purchase of an Emergency Standby Generator for the Westward Lift Station from Quinn Power Systems in Riverside, California, in the amount of \$55,095.06**

RECOMMENDED ACTION:

That the Banning Utility Authority adopt Resolution 2019-25 UA:

1. Approving the purchase of a new emergency standby generator for the Westward Lift Station from Quinn Power Systems in the amount of \$55,095.06.
2. Authorizing the City Manager or his designee to make the necessary budget adjustments, appropriations and transfers related to the purchase of the emergency standby generator.

BACKGROUND:

The Wastewater Division operates four (4) sewer lift stations located throughout the City. These stations are essential for the delivery of untreated sewage to the City's Wastewater Treatment Plant. Three (3) of the City's lift stations are equipped with standby emergency generators, with the fourth and smallest lift station (intermittent use) supported by a standby portable bypass pump. The Westward Lift Station is the largest of the City's lift stations and serves the Sun Lakes development as well as most of the northwest quadrant of the City.

In 2006, the State Water Quality Control Board mandated that each sewer collection agency develop, implement and maintain a Sewer System Management Plan (SSMP).

One of the SSMP's mandatory elements is a Sanitary Sewer Overflow (SSO) Emergency Plan. Under this Plan, agencies are required to take all precautionary steps to reduce the likelihood of an SSO. By ensuring that our lift stations have a reliable, uninterrupted power supply, the City reduces the risk of an SSO.

The existing generator at the Westward Lift Station is a Generac, model #SD230 diesel engine and was first installed when the lift station was constructed in 1983. Due partly to its age, parts are no longer manufactured for this generator, rendering any necessary repairs impossible. In addition, the generator has been broken into and vandalized numerous times with batteries stolen, doors broken off or cut open.

The new Caterpillar Diesel Standby Generator model #D100-8 meets both EPA (Environmental Protection Agency) and CARB (California Air Resources Board) PM (particulate matter) Tier 3 emission standards. It has the same basic specifications and size as the original generator and the manufacturer is located in Riverside County. Additionally, staff is in the process of standardizing all generators throughout the City for consistency in scheduling maintenance/service, parts ordering, etc.

In order to streamline the procurement process, staff identified an existing Sourcewell cooperative purchasing contract (#120617-Cat) for the new Caterpillar generator, resulting in a significant cost-savings to the City.

JUSTIFICATION:

The current emergency standby generator at the Westward Lift Station is approx. 36 years old and is in poor operating condition. Components necessary for repair are no longer manufactured for this make and model, rendering it unserviceable and no longer acceptable as the backup emergency power source for the Westward Lift Station. A new emergency standby generator is required at this location in order to ensure that the lift station has a reliable, uninterrupted power supply to reduce the risk of an SSO.

FISCAL IMPACT:

An appropriation in the amount of \$55,095.06 from Fund 683, BUA Wastewater Capital Fund, to Account No. 683-8000-454.90-56 (Machinery/Equipment) is required to cover the cost of the new emergency standby generator.

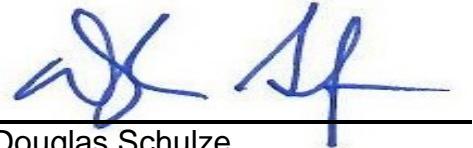
ALTERNATIVE:

Do not approve and provide alternative direction. Not approving the purchase of a new emergency standby generator will negatively impact the ability of the Wastewater Division staff to manage emergency power failures/shutoffs at the Westward Lift Station, putting the City at an increased risk for an SSO.

ATTACHMENTS:

1. Resolution 2019-25 UA
<https://banningca.gov/DocumentCenter/View/6723/Attachment-1---Resolution-2019-25-UA-121019>
2. Quotation from Quinn Power Systems
<https://banningca.gov/DocumentCenter/View/6722/Attachment-2---Quinn-Power-Systems-Quote-121019>

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING BANNING UTILITY AUTHORITY REPORT

TO: **BANNING UTILITY AUTHORITY**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Art Vela, Director of Public Works
Luis Cardenas, Senior Civil Engineer**

MEETING DATE: **December 10, 2019**

SUBJECT: **Resolution 2019-26 UA, Approving Change Order 1 to the Contract with Hemet Manufacturing Co., Inc., dba Genesis Construction for the Altitude Valve at Southwest Reservoir Project in the amount of \$35,426**

RECOMMENDED ACTION:

That the Banning Utility Authority adopt Resolution 2019-26 UA:

1. Approving Change Order 1 to the contract with Hemet Manufacturing Co., Inc. dba Genesis Construction for the Altitude Valve at Southwest Reservoir project in the amount of \$35,426.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Agreement with Hemet Manufacturing Co., Inc. of Hemet, CA for the "Altitude Valve at Southwest Reservoir" and to approve Change Order 1 in the amount of \$35,426.
3. Authorizing the Deputy City Clerk to certify the adoption of this resolution and to have said resolution filed in the book of original resolutions.

BACKGROUND:

The City of Banning's Utility Authority awarded a contract to Hemet Manufacturing Co., Inc. at the June 11, 2019 meeting in the amount of \$174,907 for the construction of the Altitude Valve at Southwest Reservoir. This altitude valve will allow the full use of the

design storage capacity of the Southwest reservoir, whereas currently it must be maintained lower to avoid inadvertently overflowing it and wasting water.

During initial pre-construction activities it was discovered that the as-built drawings the design engineer relied upon to design the improvements contained errors in the diameter, material, and slope of the inlet/outlet pipe. The changed field conditions required adjustments in the design, materials, and labor required to complete the installation.

JUSTIFICATION:

The contractor proposed a solution that would allow the initial design to proceed with only minor adjustments, and the design engineer and City staff approved of the recommended solution. City staff reviewed the breakdown of additional material and labor costs and agrees that the requested change order amount is commensurate with the change in scope.

FISCAL IMPACT:

The requested change order amount of \$35,426 exceeds the previously approved 10% project contingency by \$17,935. Additional appropriation in the amount of \$17,935 from the Water Fund is requested and the change order will be paid for from Account No. 661-6300-471.95-09 (Special Utility Cap Items/Reservoirs). Total contract price after approval of Change Order 1 will be \$210,333.

ALTERNATIVES:

1. Do not approve the change order and direct staff to terminate the construction contract and rebid the project with the updated field conditions. The alternative will increase the overall cost of the project (e.g. additional mobilization costs, rebidding costs, etc.) with no guarantee that there will be savings realized.
2. Do not approve the requested change order and provide alternative direction. Delays in the planned construction of this improvement during a time of year when water demands are low may lead to operational difficulties later in the year.

December 10, 2019

Page 3 of 3

ATTACHMENTS:

1. Resolution 2019-26 UA
<https://banningca.gov/DocumentCenter/View/6719/Attachment-1---Resolution-2019-26-UA>
2. Change Order 1 <https://banningca.gov/DocumentCenter/View/6718/Attachment-2---Change-Order-Request-1->

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO:

City Council

FROM:

Douglas Schulze, City Manager

PREPARED BY: **Jim Steffens, Power Resources & Revenue Administrator**
Tom Miller, Electric Utility Director

MEETING DATE: **December 10, 2019**

SUBJECT: **Resolution 2019-146, Electric Rule #30 Climate Zone 10 Designation**

RECOMMENDED ACTION:

The City Council adopt Resolution 2019-146, adopting Banning Electric Utility Rules and Regulations Rule Number 30, designating the City as being in Climate Zone 10 for the purposes of tariff baselines, energy efficiency standards, weatherization, solar requirements, and electric-related building standards.

GOAL:

For the sake of simplicity and for consistency with our neighboring communities, reduce the number of climate zones that the Electric Utility falls under from three zones to one zone.

BACKGROUND:

For the purposes of tariffs, solar requirements, and energy efficiency standards the State of California has divided the state into sixteen (16) differing climate zones. Most cities fall into one climate zone. However, due to the somewhat arbitrary nature of the climate zone boundaries, the City of Banning ("City") falls into three different climate zones: Climate Zone 10, Climate Zone 15, and Climate Zone 16. For the purposes of tariff baselines, energy efficiency standards, weatherization, solar requirements, and electric-related building standards the Electric Utility desires to designate that the City is only in Climate Zone 10.

JUSTIFICATION:

For the purposes of practicality, the Electric Utility desires to have the City as being designated in only one climate zone. The City's seasonal temperatures, elevation, and heating & cooling degree days are most similar to our neighboring cities that are located within Climate Zone 10. These neighboring cities include Beaumont, Cherry Valley, and Calimesa. With Sun Lakes and the Pardee's Atwell development being in Climate Zone 10, the majority of our customers are already within Climate Zone 10.

FISCAL IMPACT:

None.

OPTIONS:

1. Approve as recommended.
2. Approve with modifications.
3. Do not approve and provide alternate direction.

ATTACHMENTS:

1. Resolution 2019-146
<https://banningca.gov/DocumentCenter/View/6721/Attachment-1-2019-146-Resolution---Designating-Climate-Zone-10>
2. Electric Rule #30 <https://banningca.gov/DocumentCenter/View/6720/Attachment-2-Banning---Banning-Electric-Rule-30-v1>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Adam B. Rush, Community Development Director

MEETING DATE: December 10, 2019

SUBJECT: ORDINANCE NO. 1552 OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AN ORDINANCE APPROVING ZONING TEXT AMENDMENT 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.

RECOMMENDED ACTION:

The Planning Commission recommends that the City Council adopt Ordinance 1552, which takes the following actions:

1. Make a determination under CEQA Guidelines Section 15060(c)(3) that the Zoning Text Amendment is not subject to CEQA because the amendments are not a "project" as defined by the CEQA Guidelines Section 15378.
2. Introduce, as read by title only, Ordinance No. 1552 (Attachment 3), an Ordinance of the City Council of the City of Banning, California, Approving Zoning Text Amendment (ZTA) 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.

APPLICANT INFORMATION:

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

BACKGROUND:

November 6, 2019 Planning Commission:

The proposed Zoning Text Amendment (ZTA) was re-advertised for the November 6, 2019 Planning Commission Public Hearing. Staff from the City's Community Development Department provided a summary of the Council's direction and suggested provisions to the ZTA which included the authorization of more than one storage container on residential lots larger than one half acre provided compliance of the design standards set forth within the proposed amendment. The Planning Commission debated, accepted additional public testimony, and revised their recommendation to the City Council to adopt the Ordinance Amendment include the authorization of one storage container for lots with a minimum size of 20,000 square feet, a maximum of two storage containers for residential lots not less than 20,000 but not more than 2-acres, and a maximum of five storage containers for residential lots not less than 2-acres but not more than ten-acres.

September 10, 2019 City Council:

Subsequent from the August 14th Planning Commission the Zoning Text Amendment was scheduled before the Banning City Council at a Public Hearing advertised for September 10th. The City Council opened the public hearing, accepted testimony from residents and constituents on the item. Following the acceptance of public comments, the Mayor solicited questions from the Council.

Several members of the City Council expressed concerns that only one commercial cargo/storage containers are authorized for residential property within the proposed Amendment. Staff responded that a minimalist approach is preferred and that future updates could be brought forth as the need arises. However, the Council requested additional deliberation on this matter. As such, the item was referred back to the Planning Commission for further discussion.

As such, City Staff has revised the Ordinance Text and update the Planning Commission Resolution (Resolution 2019-24) to reflect these additional provisions.

At the meeting of August 14, 2019 the Planning Commission recommended to the City Council approval of Zoning Text Amendment 19-97503, establishing regulations for commercial cargo/storage containers.

Commercial cargo/storage containers are generally used to transfer goods from point A to point B. It is widely used in overseas shipping industry and ground distribution throughout the world. In the City of Banning, commercial cargo/storage containers are being used primarily for temporary storage of building materials and tools, household goods, personal items, seasonal overstock and other materials for use on a limited or temporary basis. The sizes of such commercial cargo/storage containers vary by the nature of their use. Many corporations are now offering temporary storage containers for moving purposes such as "PODs" by PODs, "PackRat" by Lowes, "U-Box" by U-Haul and many others and are sized generally 8X7X8 and 8X8X16 feet. Some retailers offer smaller versions. Traditional commercial cargo/storage container are typically sized at 8X8X20 to 8X8X53 feet.

Currently, the Banning Municipal Code (BMC) authorizes storage containers, for a period not to exceed 60-days, unless the cargo container is used for a construction project with a valid building permit, in which case the temporary use permit may be granted for up to 365-days. There is no zoning district which authorizes commercial cargo/storage containers as either a permanent or semi-permanent ancillary use through any type of permit or authorization.

City staff understands and acknowledges the convenience and low cost of commercial cargo/storage containers and their growing popularity in utilizing them in both residential and commercial construction.

In utilizing commercial cargo/storage containers as permanent, but ancillary uses; the city should develop design guidelines to ensure that commercial cargo/storage containers are screened from public right-of-ways (R/W) and compatible with the surrounding neighborhood. The architectural guidelines and enhancements are developed to promote compatibility within established zoning districts, and that containers are developed in accordance with applicable building codes. The use of commercial cargo/storage containers, as permanent construction elements, does not in any way preclude the application of required building code compliance, including, but not limited to the California Building Code, Green Building Code, and the Mechanical, Electrical, and Plumbing (M.E.P.) codes.

ANALYSIS:

The four major components, necessary for consideration of both the temporary and permanent use of containers are their concealment, their color, the placement, and the size of proposed container usage and storage. These four components are vital considerations across all zoning districts, including residential and commercial/industrial districts.

Land Uses:

For residential application, staff is reviewing the needs during construction and moving. For construction use, a temporary use permit is appropriate to allow an opportunity for residents and/or property owners to meet their temporary storage needs. For moving purposes, no permit is required by the resident or the property owner.

For commercial and industrial applications, staff is reviewing the needs for temporary uses such as seasonal overstock storage, construction storage of materials and tools, and remodel storage of existing furnishings and goods during tenant improvements. This is limited to a short period of time not to exceed 60 days, or a maximum of 365-days but only in conjunction with an active construction project.

The permanent storage use would include the long term storage of maintenance equipment such as garden tools, disposable parts, overstock of goods, files/documents, event furniture and appliances, and miscellaneous items used in daily operation of a business. This is to assist in providing additional storage for those businesses that may not have adequate storage spaces within their current building square footage. This is also a quick and inexpensive method of gaining storage space without the high cost and time of the traditional construction method.

Site Standards:

The site standards for residential, commercial, and industrial will address the placement on site/setbacks, color, conditions of the container, size, and screening. All of the criteria are to minimize the impact commercial cargo/storage containers have on the neighborhoods and commercial/industrial developments in the city and not create hazardous situations or negative visual impacts.

ENVIRONMENTAL DETERMINATION:

A. California Environmental Quality Act (CEQA)

City staff has determined that the proposed Zoning Text Amendment is not subject to the California Environmental Quality Act (“CEQA”) pursuant to the State CEQA Guidelines Section 15060(c)(3) because it is not a project as defined by the CEQA Guidelines Section 15378. The Zoning Text Amendment will establish zoning and design standards for commercial cargo/storage containers within each zoning districts. In addition, adoption of the Zoning Text Amendment does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to the proposed Zoning Text Amendment will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA and the City of Banning Municipal Code.

B. Multiple Species Habitat Conservation Plan (MSHCP)

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

ADDITIONAL REQUIRED FINDINGS

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zoning Text Amendments meet certain findings prior to the approval by the City Council. Findings for Zoning Text Amendment No. 19-97503 are made and can be found in the attached Planning Commission Resolution 19-20 (attachment 1) and Ordinance 1552 (attachment 3).

PUBLIC COMMUNICATION:

This hearing was advertised in the Record Gazette newspaper on August 30, 2019 and notices were posted in two public places in compliance with the City's noticing requirements for public hearings.

No other written communication has been received as of the writing of this staff report.

FISCAL IMPACT:

This Zoning Text Amendment (ZTA) is a City-initiated code amendment and is paid for through the General Fund budget allocations. Approximately 20 total hours have been dedicated to the drafting, review, presentations, and coordination associated with the proposed amendment.

OPTIONS:

1. Concur with the Planning Commission's Recommendation of Approval.
2. Do not approve and provide Staff with direction.

ATTACHMENTS:

1. Planning Commission Staff Report
https://banningca.gov/DocumentCenter/View/6743/ATTACHMENT-1---PC-STAFF-REPORT_11-06-19
2. Planning Commission Resolution 2019-24
<https://banningca.gov/DocumentCenter/View/6744/ATTACHMENT-2---PC-Resolution-No-2019-24>
3. Planning Commission Minutes (August 14, 2019)
https://banningca.gov/DocumentCenter/View/6745/ATTACHMENT-3---PC-Minutes_August-2019
4. Ordinance No. 1552 for ZTA 19-97503
https://banningca.gov/DocumentCenter/View/6746/ATTACHMENT-4---Ordinance-No-1552-ZTA-No-19-97503---Commercial-Cargo_Storage-Containers
5. Notice of Exemption
<https://banningca.gov/DocumentCenter/View/6747/ATTACHMENT-5---Notice-of-Exemption-NOE>
6. Public Hearing Notice
https://banningca.gov/DocumentCenter/View/6742/ATTACHMENT-6---PHN_ZTA-19-97503

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Adam B. Rush, Community Development Director

MEETING DATE: December 10, 2019

SUBJECT: Resolution 2019-113, Approving the Comprehensive User Fee Study Report, dated January 2, 2019 and Adopting an updated Master User Fee Schedule for Certain City Departments and Fee Groups, Making a Finding for Exemption under CEQA; and Ordinance 1553, Proposing Amendments to Chapter 3.36 "Fee and Service Charge Revenue/Cost Comparison" of the Banning Municipal Code, and Making Findings Pursuant to CEQA.

RECOMMENDED ACTION:

That the City Council:

1. Adopt Resolution 2019-113, approving the Comprehensive User Fee Study Report ("Study"), dated January 2, 2019 and adopting an updated Master User Fee Schedule ("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, and Making Findings Pursuant to CEQA; and
2. Waive further reading, and introduce as read by title only, Ordinance 1553, an Ordinance of the City of Banning California, amending Chapter 3.36 "Fee and Service Charge Revenue/Cost Comparison" of the Banning Municipal Code (BMC) ("Code Amendment").

BACKGROUND:

November 19, 2019 (Budget & Finance Committee):

The Budget & Finance continued the Study and Schedule from the October 15th Committee Meeting. The Committee relayed several questions and concerns to staff that were researched and addressed during the November Committee Meeting. These questions are summarized as follows:

- Pg. 7 – Discussed on March 14th, 2018 that Master User Fee not update since 2007. On September 20, 2019 City Council referred back to Finance Committee. Why?
 - *The Council recommended the Budget & Finance Committee (“Committee”) review the updates and proposed Fee Schedule.*
- Pg. 15 – Study every 3 to 5 years for purposes adding or removing fees
 - *Council policy will be to update Fee Schedule annually with a CPI and minor clarifications. A comprehensive review every 3-5 years.*
- Pg. 23 – Elasticity
 - *This section cites a general economic principle and details that the Study does not attempt to evaluate the Fee Schedule relative to accepted economic behaviors.*
- Needs updating Pg. 24 Animal Control and Beaumont PD
 - *This section has been updated and corrected.*
- Pg. 37 – San Juan police tactical unit pg. 28 County MOU 477K
 - *This section has been updated and corrected.*
 -
- Pg. 55 Planning Department Sign Permit of \$499.00 and also sign review of \$278.00 but back of Pg. 42 under Building Dept. You are wanting to charge from \$190.00 to \$528.50.
- **(SEE BREAKDOWN BELOW):**
 - *Planning Dept. (Chapter 17.36 of BMC):*
 - *Sign Permit – Freestanding Sign (\$499.85)*
 - *Sign Permit – Panel Change Only (\$108.42)*
- ***Sign Program Review (Master Signage Program for new Commercial or Industrial Development) – General (\$859.99)***
 - *Building & Safety Dept. (Chapter One of the 2016 Building Code):*
 - *Sign – Monument (\$396.00)*
 - *Sign-pole/billboard – (\$528.50)*
 - *Sign-wall (\$190.50)*
 - = *Total Fees (Building & Planning) Per Sign Type:*
 - *Monument Sign: \$895.85*
 - *Pole Sign/Billboard: \$1,028.35*
 - *Panel Change Out: \$298.92*

Subsequent from the Committee's deliberation, the Study and Schedule were recommended to proceed to the next available City Council Meeting. The one exception was that the application fee for "personal use of cannabis" was recommended for removal. ***The reason being is that recent updates to the State's regulations to enforce Prop 64, combined with recent court opinions, this fee is recommended for removal.***

October 15, 2019 (Budget & Finance Committee):

The Budget & Finance Committee considered the Study and Schedule at the last Budget and Finance Committee meeting held on October 15, 2019. City staff provided a brief presentation and overview of the Study and proposed fees to the Committee; which was followed by public testimony. The Riverside Chapter of the Building Industry Association (BIA) also provided written correspondence concerning this item which was received at City Hall on the evening before the Committee's regularly scheduled meeting (Oct. 14, 2019). In addition, representatives from the Riverside BIA (Mr. Damian Fussel and Mr. Morgan Keith) attending the last Committee meeting wherein they both provided oral testimony before the Committee concerning the BIA's position on the Study and Schedule.

Based upon the Committee's own review of the staff report, and coupled with the issues raised by the BIA, the Committee brought forth several questions for staff and the BIA. City staff has reviewed the Committee's questions and provided additional analysis and background to address the issues raised during the last Committee meeting.

September 10, 2018 (City Council Meeting):

The City of Banning engaged Wildan Financial Services ("Wildan") to determine the full costs incurred by the City to support the various activities for which the City charges user fees to its customers and constituents. The intention of establishing a Comprehensive User Fee Study Report and an updated Master User Fee Schedule is to recover the costs for the use of city facilities and the provision of support services; which are provided to the City's customers, residents, and businesses. The Comprehensive User Fee Study Report ("Study") has initiated a variety of fee methodologies to identify the full cost of individual fees and program activities; wherein, the majority of user fees and programs are recovered at 100% of the cost borne by the City.

The Master User Fee Schedule has not been updated since 2007. In some cases, increases were necessary to achieve full costs recovery. The City has reviewed the Study; including the potentially large fee increases which incorporates justification for some of the increases. Resulting from Council policy, staff has reduced some of the Study recommendations as the increases are not feasible over a short timeframe. In other situations, the City is implementing a full cost recovery where required by City Council policy and state law. In addition, all of the City's Fees (with the exception of Airport and some Parks & Recreation Fees) have not been updated since 2007 in contrast to Council policy requiring an annual update to the Fee Schedule and adoption of new fees by City Council Resolution.

Many of the larger fee increases are specifically related to the Community Development fees for both Planning and Building Permits, plan reviews, and the associated costs. Conducting this Study with full transparency, City staff has conducted several meetings with the Building Industry Association (BIA); specifically, in regards to the residential plan check and Building Permit fees for Single-Family Residential (SFR), new construction homes. The BIA has cited several concerns; which staff analyzed and implemented corrections into the final Schedule. These updates were primarily concerning the labor rates of Community Development staff position – including those that have not been filled for many years, or in situation where contract services have been renegotiated and those cost-savings passed on to our customers. These updates

have been reconciled with our current contract rates and the City's Classification and Compensation schedule.

City staff advertised, and presented, the Comprehensive User Fee Study Report and Master User Fee Schedule to the City Council at the September 10, 2019 Public Hearing. Resulting from this public hearing, the questions provided by members of the City Council, and testimony provided by the Building Industry Association (BIA), the Council referred this item back to the Budget and Finance Committee for review and further analysis.

In an effort to ensure maximum transparency on this matter, the City has transmitted notification of the Master User Fee Schedule and Report to the BIA at least 14-days prior to the October 15, 2019 Budget & Finance Committee Meeting. In addition, the City provided a copy of the Report to the BIA and published before the community within 10-days of the Budget & Finance Committee Meeting. As of this writing, a Public Records Act (PRA) request was filed on Monday, September 30th by Morgan Keith, on behalf of the BIA.

ANALYSIS:

The Willdan Comprehensive User Study Report is the most current and updated analysis the City has commissioned. The data provided to Willdan is derived from 2016/2017 fully burdened rates. Obviously, salaries, benefits, and budgeted positions have changed in the last two years. However, the comparison between the 2016/2017 data with rates today do not create a substantive change in the proposed Fee Schedule. In addition, the City is not recovering our costs from a number of services that are currently provided. Adoption of the proposed Fee Schedule enhances the City's ability to recover a higher percentage of the costs charged for services provided to our customers. The City will undertake an annual review process that evaluates the user fees and recommend adjustments as needed.

City Staff is requesting two items, which are review and acceptance of the Comprehensive User Fee Study Report, prepared by Willdan Financial and dated January 2, 2019. This Report does include a Fee Matrix starting on page 23 of the report. This matrix provides the supportive methodology and policy direction on the assessment of the cost to provide City services.

Secondly, City Staff is requesting review and acceptance of an updated Master Fee Schedule, which is based upon the aforementioned study but slightly modified in some areas to more accurately reflect changes in the City's Fully Burdened Hourly Rates (FBHR). In no case, was the methodology or analysis altered in a manner to substantially affect the realized costs of City services. In addition, City Council Policy requires that the Master Fee Schedule is reviewed and updated on an annual basis. As such, the Fee Schedule will be reviewed and updated as necessary on or about the Fall of 2020; wherein changes, modifications, and updates can be made to the Fee Schedule by the adoption of City Council Resolution.

DISCUSSION

The Master User Fee Schedule focused on the cost of City services, as City staff currently provides them at the existing, known, or reasonably anticipated service and staff levels. This

report provides a summary of the study results, and a general description of the approach and methods Willdan and City staff used to determine the recommended fee schedule. The report is not intended to document all of the numerous discussions throughout the process, nor is it intended to provide influential dissertation on the qualities of the utilized tools, techniques, or other approaches.

JUSTIFICATION:

The basic concept of the 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.

FISCAL IMPACT:

The update to the City’s Master User Fee Schedule will provided the cost recovery necessary to ensure the existing level of service, and the reasonably anticipated increases in service remain and that the City does not incur a significant financial cost to provide this service.

OPTIONS:

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

ATTACHMENTS:

1. Resolution 2019-113 https://banningca.gov/DocumentCenter/View/6698/ATTACHMENT-1---CC_Resolution-No-2019-113_12-10-19
2. Ordinance 1553 https://banningca.gov/DocumentCenter/View/6699/ATTACHMENT-2---Ordinance-1553-for-Master-Fee-Study_12-10-19
3. Comprehensive User Fee Study, dated January 2, 2019 (Willdan)
<https://banningca.gov/DocumentCenter/View/6700/ATTACHMENT-3---Banning-UF-Report-v3-01-02-19>
4. Master Fee Schedule <https://banningca.gov/DocumentCenter/View/6695/ATTACHMENT-4---MASTER-FEE-SCHEDULE>
5. Proof of Publication <https://banningca.gov/DocumentCenter/View/6696/ATTACHMENT-5---PHN>
6. Notice of Exemption (NOE)
https://banningca.gov/DocumentCenter/View/6697/ATTACHMENT-NO-6_-Notice-of-Exemption-NOE

December 10, 2019

Page **6** of **6**

Approved by:

A handwritten signature in blue ink, appearing to read "DS".

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Adam Rush, Community Development Director

MEETING DATE: December 10, 2019

SUBJECT: **Ordinance 1555, an Ordinance Amending Chapters 15.08 and 8.16 of the Banning Municipal Code by Adopting by Reference the Entirety of the 2019 Editions of the California Building Code, Residential Code, Green Building Standards Code, Plumbing Code, Mechanical Code, Electrical Code, and Fire Code, the 2018 Edition of the International Property Maintenance Code, and the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, Together with Certain Amendments, Deletions and Additions, Including Findings, Fees and Penalties; Deleting Chapter 15.20 of the Banning Municipal Code Concerning Wind Speed Requirements; Amending Chapter 15.40 of the Banning Municipal Code Concerning Pool Fencing and Enclosure Standards; and Making Certain Clarifying Revisions to the Building and Construction Provisions within Title 15 of the Banning Municipal Code**

RECOMMENDED ACTION:

That the City Council:

1. Adopt the Notice of Exemption (NOE) which determines that Ordinance No. 1555 is not subject to CEQA, pursuant to Section 15060(c)(3) of the California Environmental Quality Act (CEQA; and
2. Conduct a public hearing on Ordinance 1555 and at the close of public hearing, adopt Ordinance 1555 amending Title 8 and 15 in its entirety and replacing it with language adopting the 2019 California Building Standards Code as amended.

BACKGROUND:

The Health and Safety Code requires the City of Banning to adopt specified codes contained in the California Building Standards Code (CBSC) by reference (e.g., building, residential, electrical, mechanical, plumbing, fire, etc.) by Jan 1, 2020, for any local modifications to be effective when the new codes go into effect. If the City of Banning does not adopt and amend the codes comprising the CBSC, the City will be subject to all building standards (but not administrative provisions) contained in the 2019 CBSC, unless and until such codes with amendments are adopted by the cities. The City's Building Official has reviewed the updated 2019 codes and is recommending a few amendments to the model codes, with the exception of the Fire Code.

In regard to the 2019 Fire Code, the City of Banning contracts with the Riverside County Office of the Fire Marshall for code compliance and fire prevention services, plan check review, business inspection, and customer service. Riverside County Fire has provided the outline of the County's proposed amendments along with their justification of the amendments as is required by law.

If adopted, Ordinance 1555 would amend Title 8 and 15 by repealing references to the prior editions of the model codes. The list below identifies the model codes upon which the 2019 Title 24 is based.

The Construction Codes proposed for adoption by reference include the following:

2019 California Building Code
2019 California Residential Code
2019 California Green Building Standards Code
2019 California Plumbing Code
2019 California Mechanical Code
2019 California Electrical Code
2019 California Fire Code
2018 International Property Maintenance Code
1997 Uniform Code for the Abatement of Dangerous Buildings

The City's Building Official and Fire Marshal are recommending certain changes and amendments to the 2019 California Building and Fire Codes, respectfully; which have been itemized and attached herein.

OPTIONS:

1. Conduct a public hearing on Ordinance 1555 and at the close of public hearing, adopt Ordinance 1555.
2. Continue the First Reading requesting clarification.

ATTACHMENTS:

1. Ordinance 1555
https://banningca.gov/DocumentCenter/View/6705/ATTACHMENT-1---Ordinance-1555-Building-Standards-Code-Adoption-Ordinance_20191210
2. Notice of Exemption (NOE)
<https://banningca.gov/DocumentCenter/View/6706/ATTACHMENT-2---NOE-Ord-1555>
3. Public Hearing Notice (PHN)
https://banningca.gov/DocumentCenter/View/6704/ATTACHMENT-3---Record-Gazette_1555-Public-Hearing-Notice---Building-and-Fire-Code-Updates-2019_abr-Rev-1_20191114

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Adam B. Rush, Community Development Director

MEETING DATE: December 10, 2019

SUBJECT: Resolution 2019-164 approving General Plan Amendment 19-2503 and Ordinance 1557 adopting Zone Change 19-3501, a proposed amendment to the General Plan Land Use Element to update the General Plan Land Use Map and Zoning map to eliminate inconsistencies within the map and promote economic development, finding the project will have a less than significant effect on the environment approving a Negative Declaration.

RECOMMENDED ACTION:

Staff recommends the City Council:

1. Adopt Resolution 2019-164, approving General Plan Amendment 19-2503 and Environmental Assessment 19-1505 adopting a Negative Declaration finding the project will have a less than significant effect on the environment and making findings in support thereof.
2. Adopt for the first reading Ordinance 1557, approving Zone Change 19-3501.

PROJECT / APPLICANT INFORMATION:

Project Location Seven locations throughout the City of Banning (**locations 5 and 8 were not recommended for approval by the Planning Commission and are represented by the strikethrough below**)

APN Information:

1.	532-130-008 (portion of 008)
2.	541-260-033, 035, 041, 042, 044, 047
3.	534-161-008, 009
4.	532-160-006, 007, 008, 009, 013, 014
5.	540-220-008, 009 (portion of 009)
6.	540-250-060 (portion of 060)
7.	540-250-035, 045 (portion of 035 & 045)
8.	534-172-001, 002, 003, 004, 005, 007, 008
9.	534-152-025

Project Applicant: City of Banning
Community Development Department

Property Owner: Various property owners (Citywide)

BACKGROUND:

As a precursor to the City's comprehensive General Plan Update, City staff is recommending that multiple parcels within the Banning City limits undergo an update to their General Plan Land Use Designation (GP LUD) in order to accurately reflect the underlying and existing land use or to facilitate the economic development of the property.

A comprehensive General Plan Update is a lengthy and costly endeavor, likely requiring a Programmatic Environmental Impact Report (PEIR), public outreach meetings, commission workshops and certain analyses required by state law. Altogether, this process can take an average of 24 months to conduct said meetings, establish the environmental impacts and disclose such impacts to members of the public and the City's advisory and decision making authorities (e.g., Planning Commission and City Council).

Given the amount of time, cost, and effort a comprehensive General Plan Update will take, several developments within the City are limited in their economic development potential and would likely suffer if subject to the timelines of a formal General Plan Update. As such, staff is recommending that nine locations undergo a selected change in land use and zoning to facilitate their future expansion and/or development opportunities. In addition, there are properties that the City owns, in which our General Plan Land Use Element does not correctly reflect the existing use currently in operation by the Banning Electric Utility (BEU) as well as property identified for future development as a substation.

Planning Commission Recommendation:

On November 6, 2019, the Planning Commission of the City of Banning, held a duly notice public hearing on the proposed General Plan Land Use Map and Zoning Map Amendments (GPA 19-2503, ZC 19-3501) and Environmental Assessment (EA 19-1505) and, following public testimony and the close of the hearing, and adopted Resolution No. 2019-22 (as revised), by a 4-0-1 vote (Commissioner Krick not participating), recommending that the City Council of the City of Banning, approve GPA 19-2503, ZC 19-3501, and EA 19-1508, with the exclusion of Locations 5 (APNs: 540-220-008, -009) and 8 (APNs: 534-172-001, -002, -003, -004, -005, -007, and -008) from GPA 19-2503 and ZC 19-3501.

Location 5 represents the Banning Business Center which is currently split between a Commercial Retail (CR) and Industrial (I) General Plan Land Uses. The property is still represented by one address and the westerly half, of the center parcel includes this land use designation split between Commercial and Industrial. Staff's recommendation is to consolidate the land uses under an Industrial designation.

Location 8 represents a property located at the northeast corner of N. Alessandro St. and E. Hoffer St. which currently has a land use designation of Low Density Residential (LDR) (0-5 DU/AC). Staff's recommendation is to upgrade the land use designation and zoning to one of Medium Density Residential (MDR) (0-10 DU/AC). The property known as Vista Serena is

located directly across E. Gilman St. and slightly to the northeast of the subject property. The Vista Serena property is designated as High Density Residential (HDR) (11-14 DU/AC). In addition, the lot sizes located directly adjacent, and to the east, of the subject property represent a lot size more in line with a MDR density range of 7,000 to 8,000 square foot lot sizes+.

ANALYSIS:

The purpose of the proposed General Plan Amendment and Zone Change is to correct inconsistencies within the General Plan Land Use and Zoning Map and to promote economic development. The City of Banning uses a combined Land Use and Zoning Map. Therefore, updates to the City's General Plan and Zoning Map are required to effectuate these changes.

General Plan Amendment

- A. The General Plan is the comprehensive long-term plan for the physical development of the city and lays the basic framework for all subsequent planning actions taken by the City. Since the City Council is desirous of proper development within the city and wishes to continue to encourage the development of appropriate projects, it becomes necessary to regulate such development so that it is properly integrated into the City's long term vision and planning process.
- B. The City Council may amend the General Plan of the City of Banning whenever required by public necessity and general welfare.
- C. The Commission shall make written recommendation on the proposed amendment whether to approve, approve in modified form or disapprove, based upon the findings to the City Council.
- D. Upon receipt of the Commission's recommendation, the Council may approve, approve with modifications, or disapprove the proposed amendment based upon the findings. Amendments to the General Plan Land Use/Zoning District map shall be adopted by resolution. Amendments to the text of the General Plan shall be adopted by resolution.
- E. An amendment to the General Plan may be adopted only if all of the findings are made:
 - a. That the proposed amendment is internally consistent with the General Plan.
 - b. That the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
 - c. That the proposed amendment would maintain the appropriate balance of land uses within the City; and
 - d. That in the case of an amendment to the General Plan Land Use Map, the subject parcels (s) is physically suitable (including, but not limited to access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints), for the requested land use designation(s) and the anticipated land use developments (s).

The proposed General Plan Amendment findings are made and can be found in the attached Resolution.

Zone Change

- A. The City Council may amend the provisions of this Zoning Ordinance for the public health, environmental protection, safety, general welfare and the aesthetic harmony of the City.
- B. The Planning Commission shall make a written recommendation on the proposed amendment whether to approve, approve in modified form, or disapprove based upon their findings.
- C. Commission action recommending that the proposed Zoning Ordinance Amendment be approved, approved in modified form, or denied shall be considered by the City Council following the Planning Commission action. A copy of the Planning Commission's recommendation to approve, or approve in modified form, shall be forwarded to the City Council.
- D. Upon receipt of the Planning Commission's recommendation for approval, approval in modified form, or denial, the City Council may approve, approve with modifications, or disapprove the proposed amendment based upon its findings. Amendments to the Zoning Ordinance shall be adopted by ordinance.
- E. An amendment to this Zoning Ordinance may be adopted only if the following findings are made:
 - a. The proposed Amendment is consistent with the goals and policies of the General Plan.
 - b. The proposed Amendment is internally consistent with the Zoning Ordinance.
 - c. That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

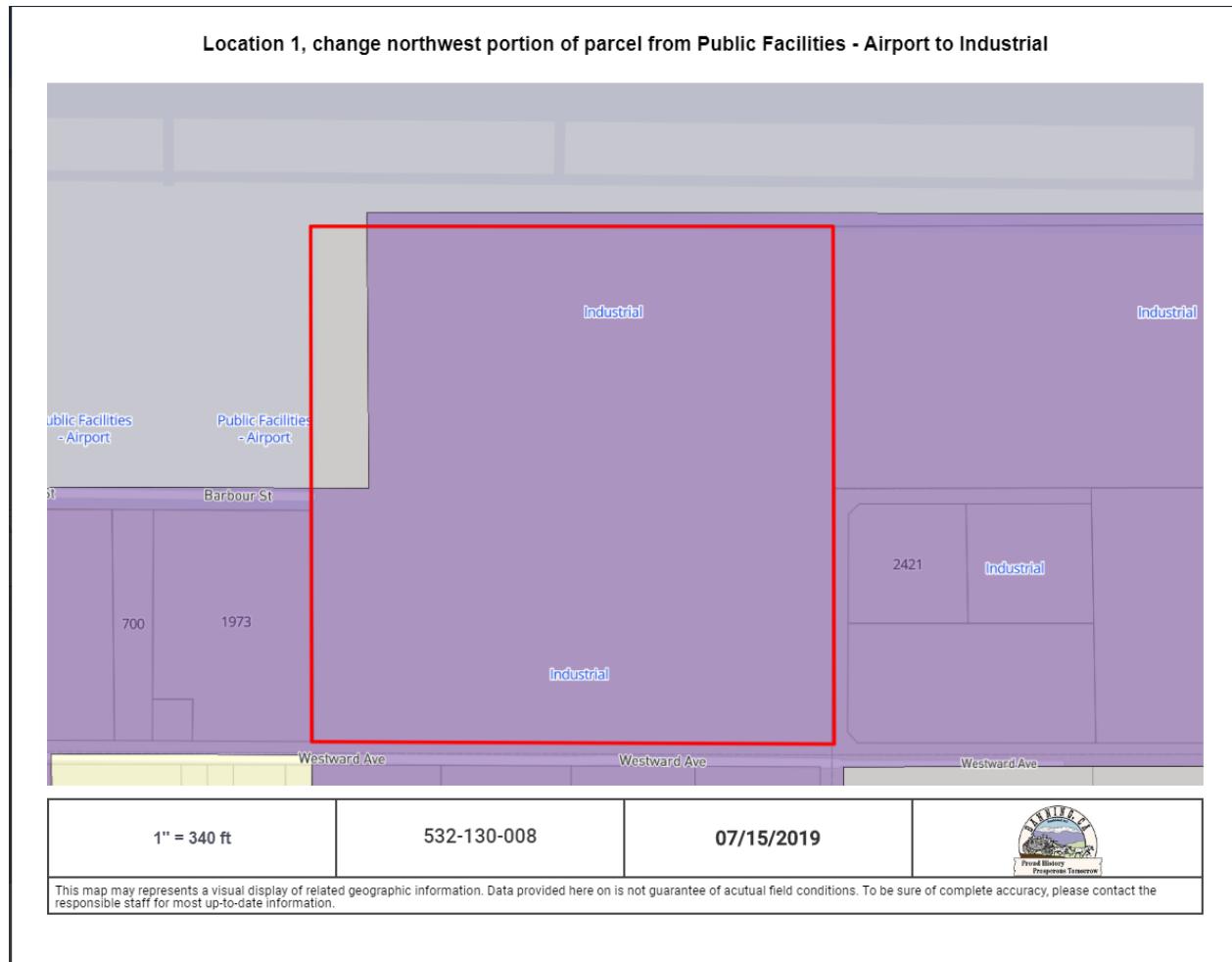
The proposed Zone Change findings are made and can be found in the attached Resolution.

The parcels identified for consideration are referenced below:

It is important to note that there is no development or ground disturbance proposed with this project. Any future development of any of the identified parcels will require separate approval in accordance with the Banning Municipal Code and environmental analysis pursuant to the California Environmental Quality Act.

1. **Location One** consist of the northwestern 2.1-acre portion of Assessor's Parcel Number 532-130-008. The northwest part of this parcel is currently zoned, Public Facilities – Airport, and is proposed to be rezoned to, Industrial, to be consistent with the remainder of the parcel. The site is surrounded by Public Facilities-Airport Zoning to the north, Industrial Zoning to the east and south and Public Facilities-Airport and Industrial Zoning to the west. See Figure 1 below.

Figure 1, Location One, Zoning Map



Location One is a 39.1-acre parcel located south of the Banning Municipal Airport, north of Westward Avenue and 1,315 feet east of Hathaway Street. The vacant parcel is relatively flat with a slight downward slope from the north to the south. There are no unique landforms, rock outcroppings, drainage courses, structures or forest. The site vegetation consists mainly of native and non-native plants and grasses. Additionally, the site has been heavily disturbed by human activities and there are signs of repeated disking for weed abatement and fire prevention. See Figures 2 and 3 below.

Figure 2, Location One, Aerial Map

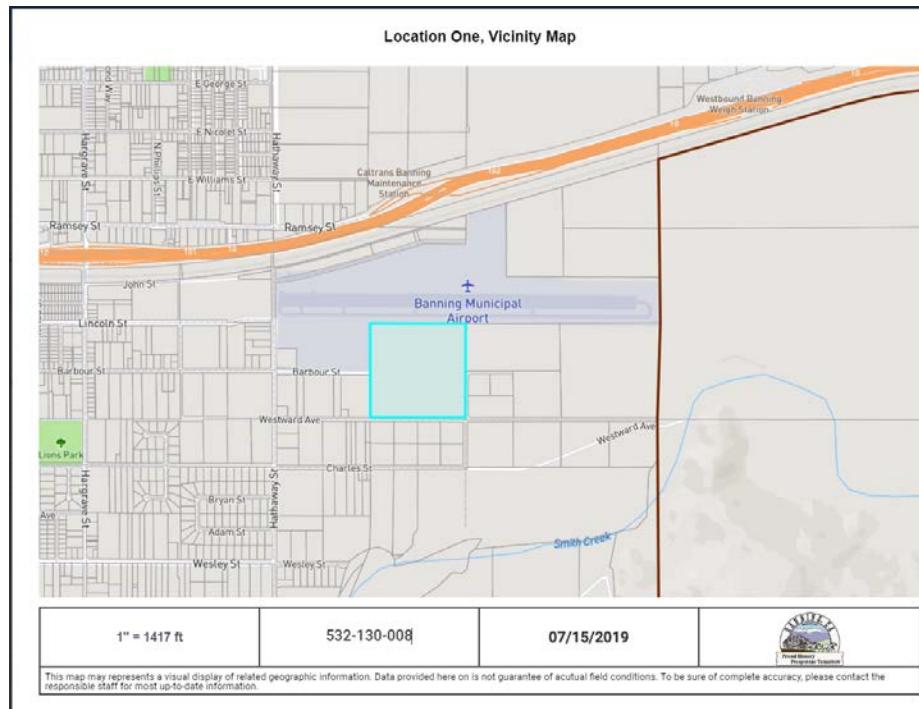
Staff Report: Resolution 2019-164 and Ordinance 1557

December 10, 2019

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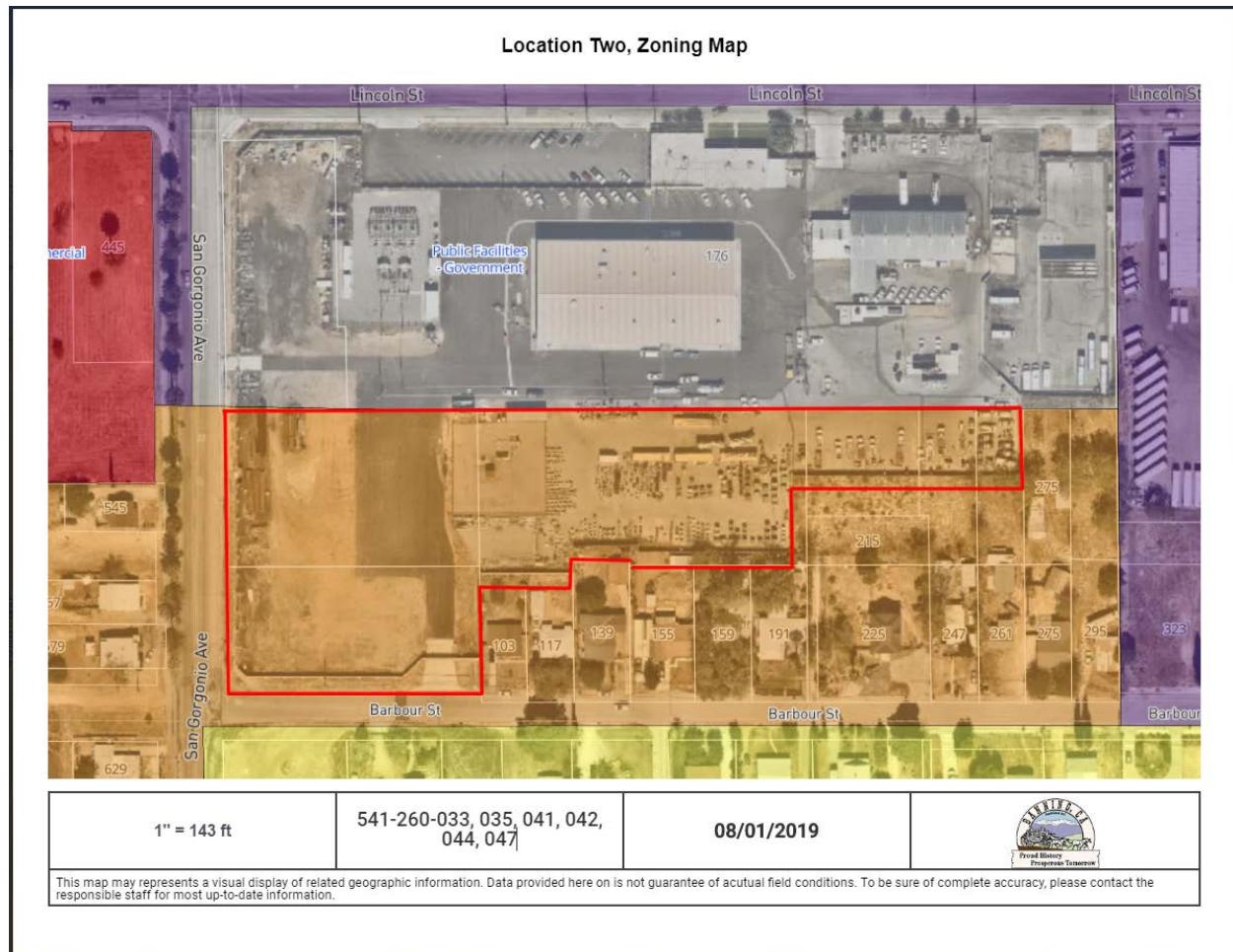
Figure 3, Location One, Vicinity Map



2. **Location Two** consists of six parcels which are identified as Assessor's Parcel Number's 541-260-033, 035, 041, 042, 044 and 047 and are all part of the City of Banning Public

Works/Electric Utility Yard. The six parcels are currently zoned, Medium Density Residential (MDR), and the proposed zoning is, Public Facility – Government to be consistent with the remainder of the existing project site (Pubic Works/Electric Utility Yard). The site is surrounded by Public Facilities-Government Zoning to the north, Industrial Zoning to the east, Medium Density Residential Zoning and Low Density Residential Zoning to the south and Medium Density Residential Zoning and Commercial Zoning to the west. See Figure 4 below.

Figure 4, Location Two, Zoning Map



Location Two consists of approximately 3.81-acres located at the Northeast corner of San Gorgonio Avenue and Barbour Street. The site is relatively flat with existing pavement for storage of materials and supplies. There are no unique landforms, rock outcroppings, drainage courses, structures or forest. There is no existing vegetation or habitat for endangered species. See Figures 5 and 6 below.

Figure 5, Location Two, Aerial Map

Staff Report: Resolution 2019-164 and Ordinance 1557

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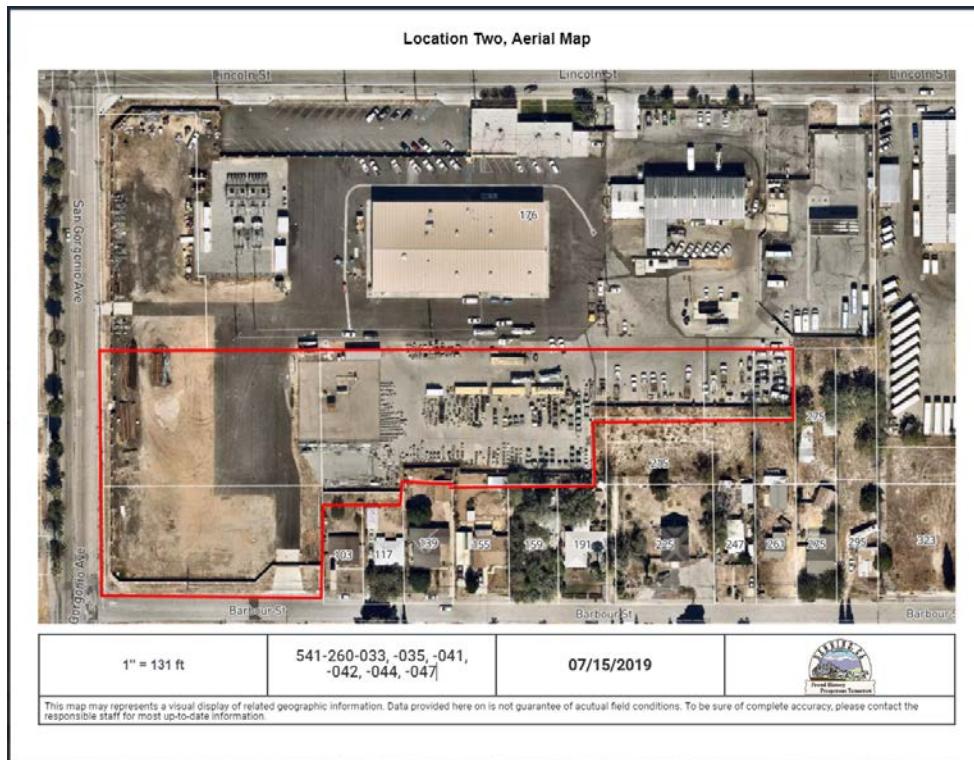
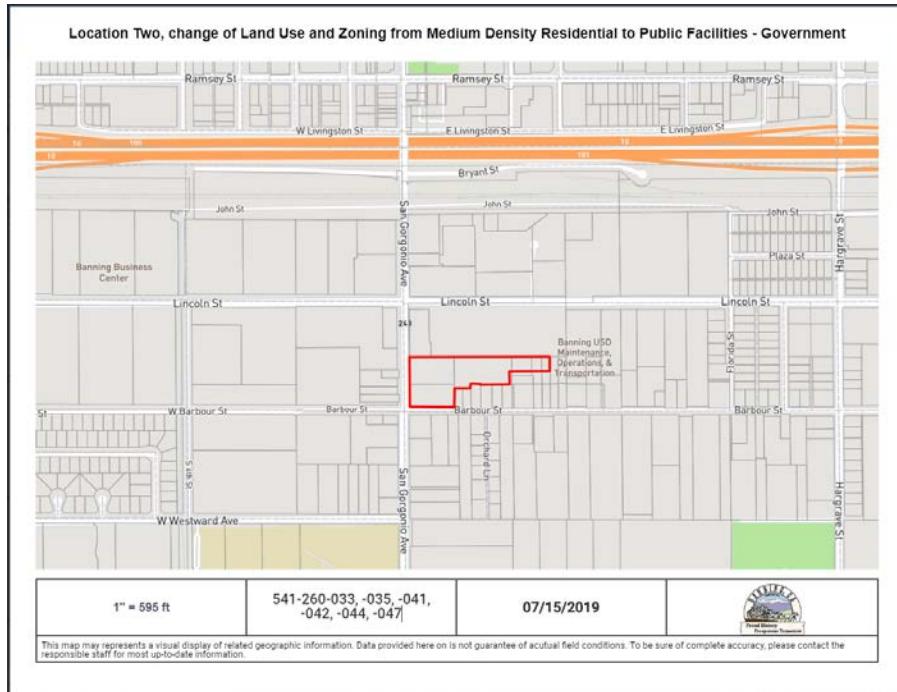
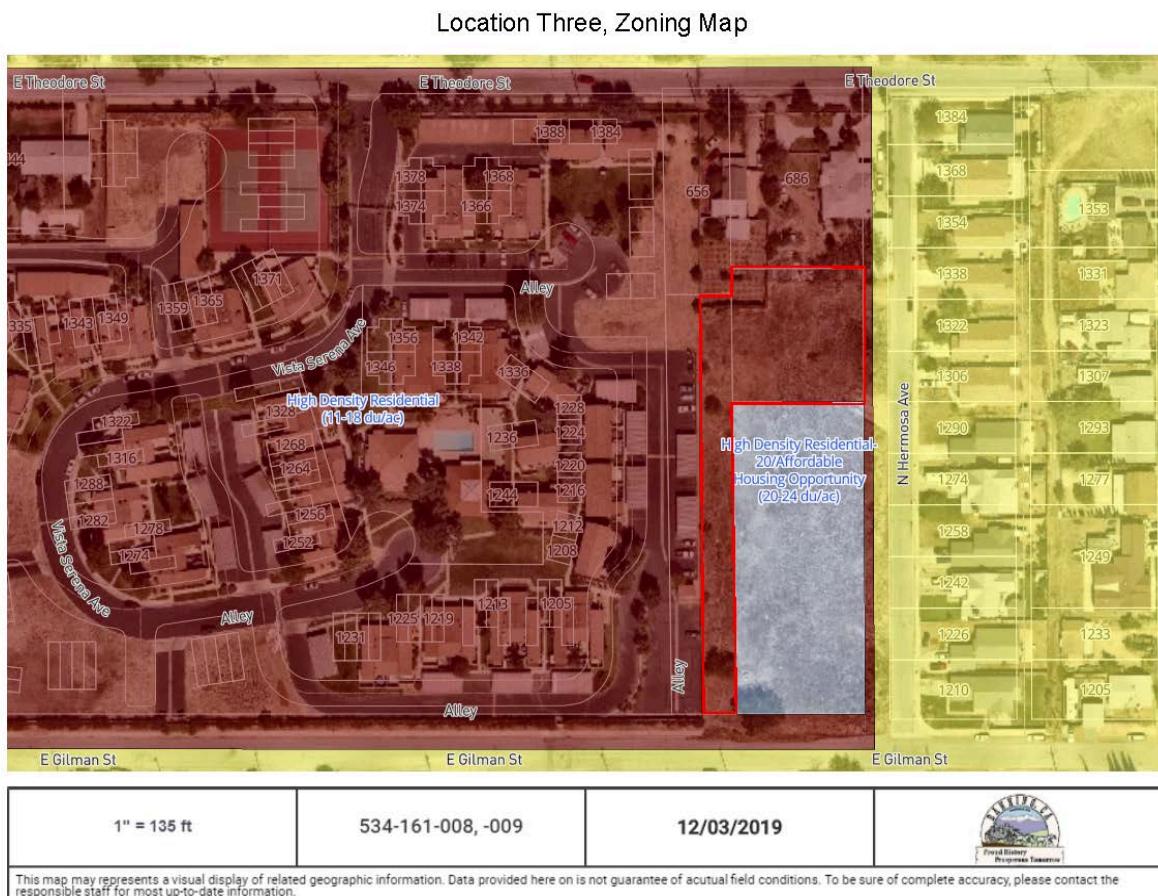


Figure 6, Location Two, Vicinity Map



3. **Location Three** consists of two parcels which are identified as Assessor's Parcel Number's 534-161-008 and 009. Location Three is currently zoned, High Density Residential (11-18 du/ac) and is currently vacant. The City proposes to rezone the two parcels to High Density Residential-20/Affordable Housing Opportunity (20-24 DU/AC) to be consistent with the adjacent parcel to the east. This will provide opportunity sites for low income housing in anticipation of the upcoming Housing Element update in 2021. The site is surrounded by Low Density Residential zoning and High Density Residential 20/Affordable Housing Opportunity (20-24 du/ac) zoning to the east, High Density Residential (11-18 du/ac) zoning to the north and west. See Figure 7 below.

Figure 7, Location Three, Zoning Map



The two vacant parcels consist of approximately 1.01-acres located west of North Hermosa Avenue and north of East Gilman Street. The site is relatively flat and slopes gently from the northwest corner to the southeast corner. There are no unique landforms, rock outcroppings, drainage courses, structures or forest. The site has little existing vegetation and has been heavily disturbed by human activities and there are signs of past disking for weed abatement and fire prevention. See Figures 8 and 9 below.

Figure 8, Location Three, Aerial Map

Staff Report: Resolution 2019-164 and Ordinance 1557

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Location Three, Aerial



1" = 165 ft	534-161-008, -009	12/03/2019	
This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.			

Figure 9, Location Three, Vicinity Map



4. **Location Four** consists of six parcels which are identified as Assessor's Parcel Number's 532-160-006, 007, 008, 009, 013, and 014. Location Four is currently zoned, Very Low Density Residential (0-2 du/ac) and has several occupied residential structures. The City proposes to rezone the six parcels to Industrial to be consistent with adjacent parcels to the east, west and north. See Figure 10 below.

Figure 10, Location Four, Zoning Map



The six parcels consist of approximately 9.22-acres located 660 feet east of Hathaway Street and north of Charles Street. The site is relatively flat and slopes gently downward from the Northwest corner to the Southeast corner. There are no unique landforms, rock outcroppings, drainage courses or forest. Four of the parcels have occupied residential structures, one of the parcels is industrially developed and the remainder parcel is vacant. The site has little existing vegetation and has been heavily disturbed by human activities. See Figures 11 and 12 below.

Figure 11, Location Four, Aerial Map

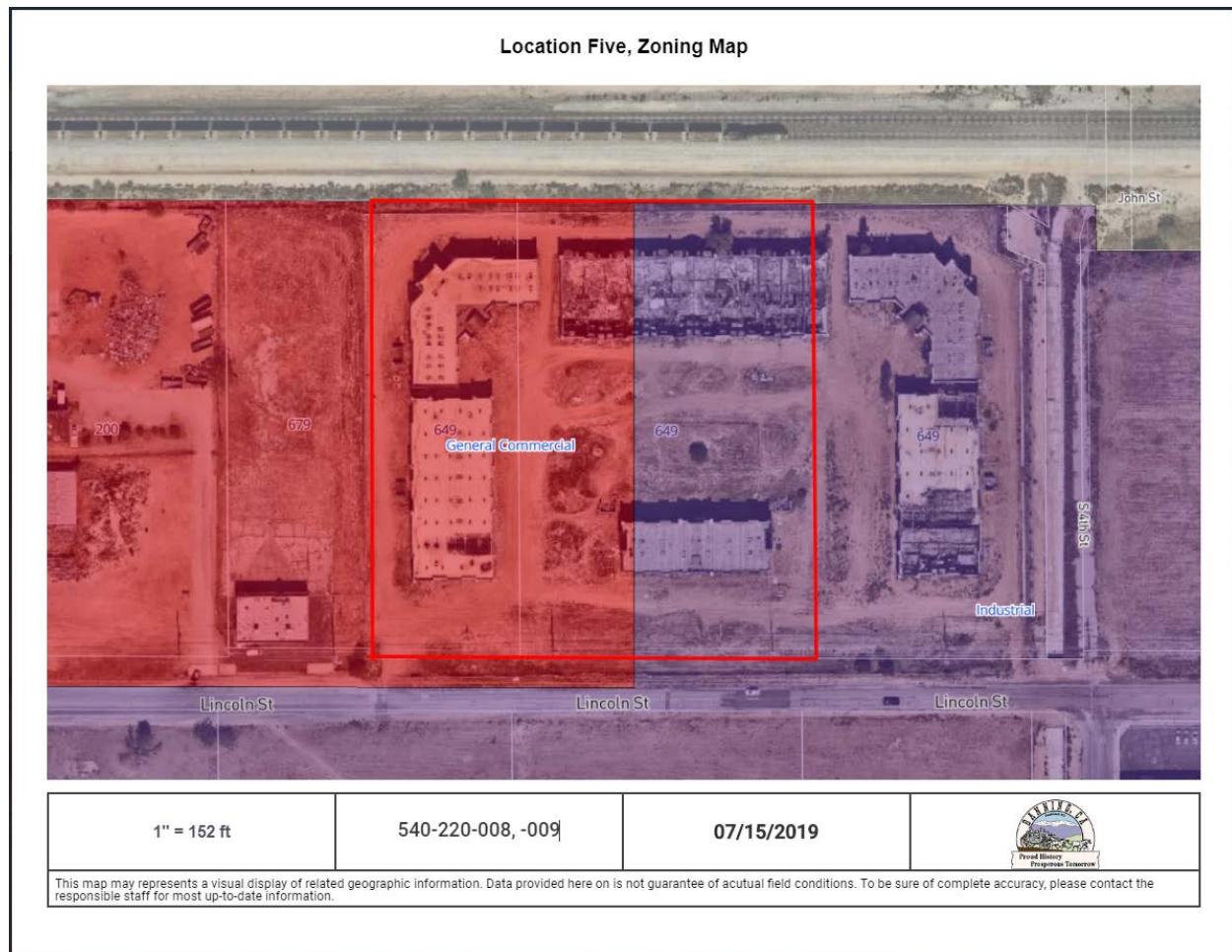


Figure 12, Location Four, Vicinity Map



5. ~~Location Five consists of two parcels which are identified as Assessor's Parcel Number's 540-220-008 and 009. All of parcel 540-220-008 and the west half of parcel 540-220-009 are currently zoned General Commercial. The City proposes to change the General Commercial Zoning to Industrial to be consistent with the remainder of the partially developed site. See Figure 13 below.~~

Figure 13, Location Five, Zoning Map (REMOVED BY THE PLANNING COMMISSION)



~~The two parcels consist of approximately 5.92-acres located 330 feet west of South 4th Street and north of Lincoln Street. The site is a relatively flat developed property with an existing burnt out vacant structure. The site was initially developed as Industrial Condo's but was never completed. The City is currently working with developers to either rehab and finish the development or tear it down and start over with a new project. See Figures 14 and 15 below.~~

Figure 14, Location Five, Aerial Map (REMOVED BY PLANNING COMMISSION)

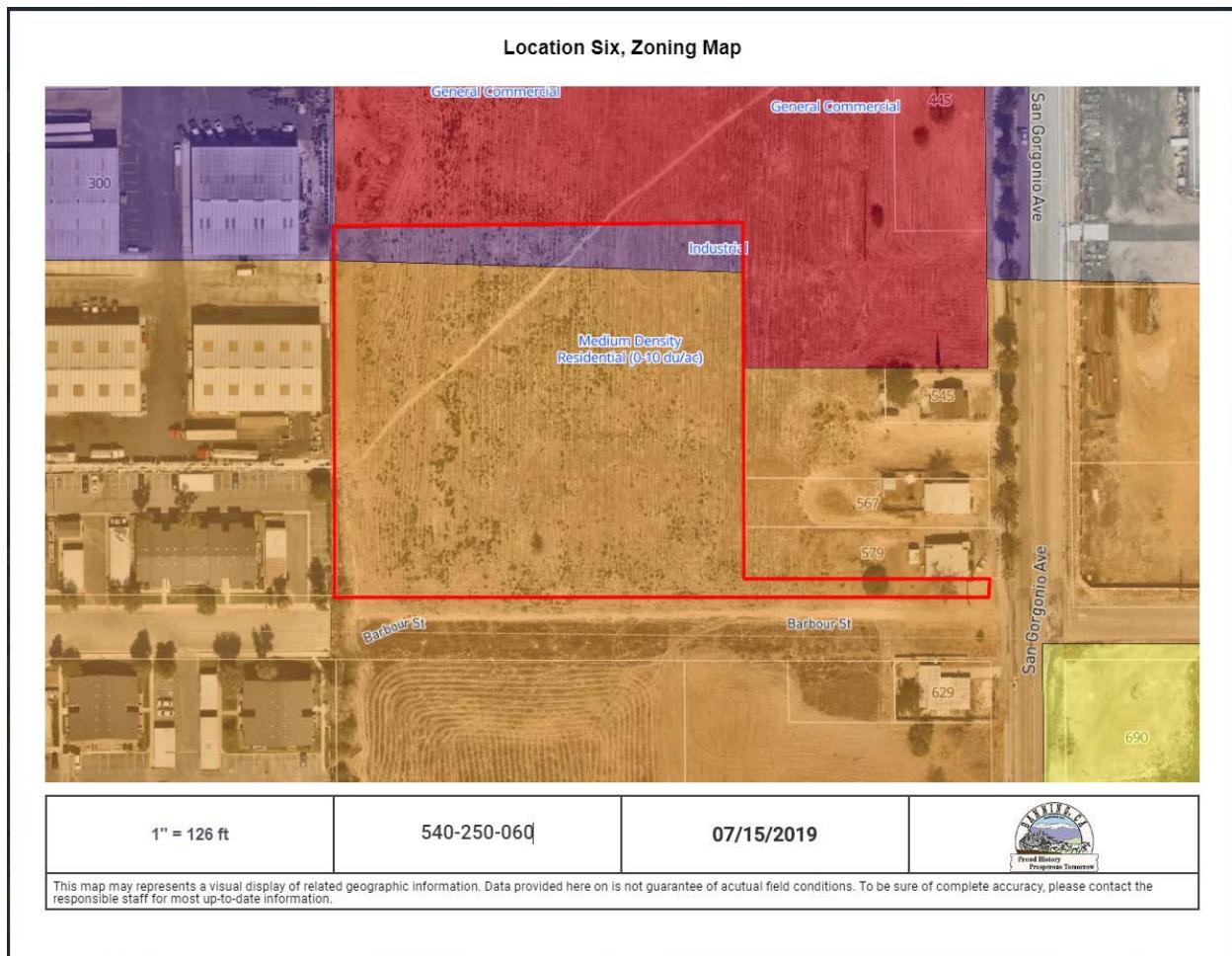


Figure 15, Location Five, Vicinity Map (REMOVED BY PLANNING COMMISSION)



6. **Location Six** consist of one parcel which is identified as Assessor's Parcel Number 540-250-060. The northern area of the property is currently zoned Industrial. The remaining part of the property is zoned Medium Density Residential. The City proposes to change the Industrial zoned portion of the property to Medium Density Residential to be consistent with the remainder of the lot. See Figure 16 below.

Figure 16, Location Six, Zoning Map

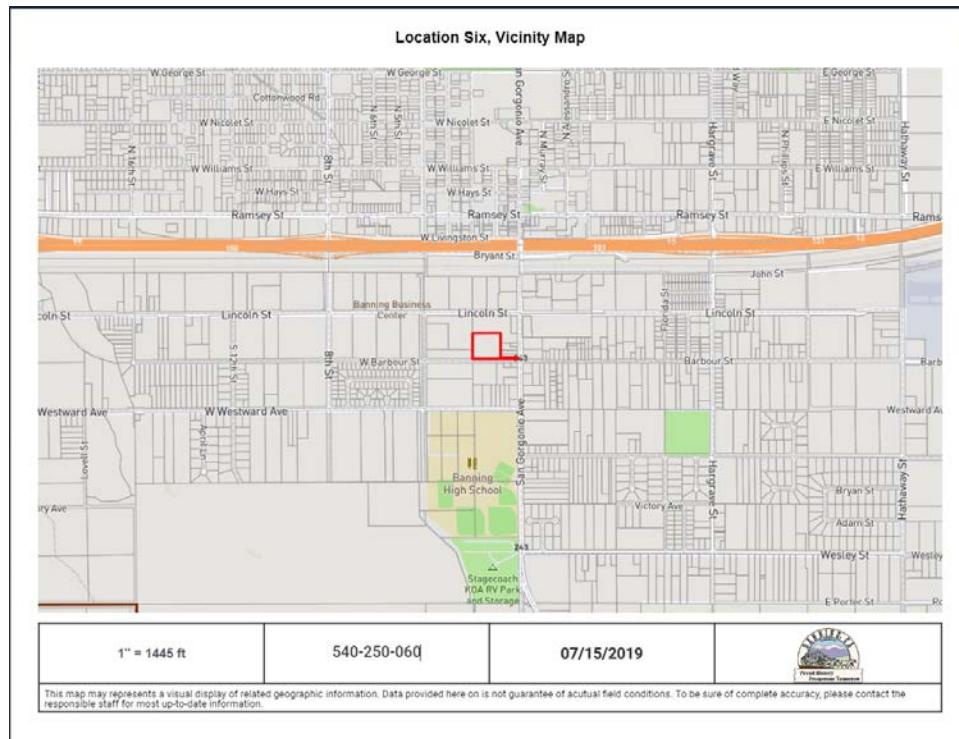


The parcel consists of approximately 3.22-acres located west San Gorgonio Avenue and north of Barbour Street. The site is a relatively flat and gently slopes downward from the northwest to the southeast. There are no unique landforms, rock outcroppings, drainage courses, structures or forest. The site has little existing vegetation and appears to have been heavily disked in the past for weed abatement and fire prevention. See Figures 17 and 18 below.

Figure 17, Location Six, Aerial Map

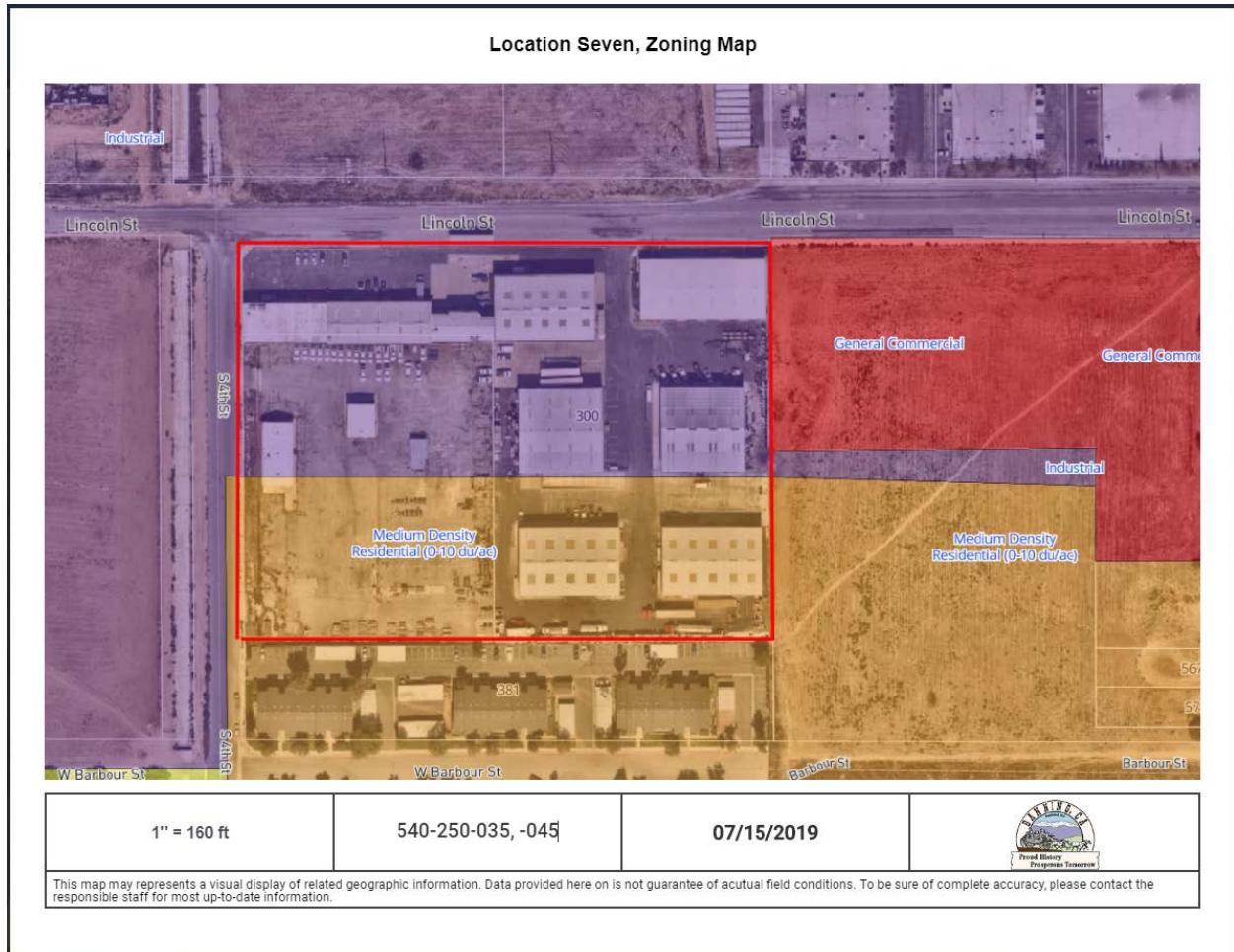


Figure 18, Location Six, Vicinity Map



7. **Location Seven** consists of two parcels which are identified as Assessor's Parcel Number's 540-250-035 and 045. The northern area of the property is currently zoned Industrial. The remaining part of the property is zoned Medium Density Residential. The City proposes to change the Medium Density Residential zoned portion of the properties to Industrial to be consistent with the remainder of the Industrial developed site. See Figure 19 below.

Figure 19, Location Seven, Zoning Map



The two parcels consist of approximately 6.84-acres located on the south east corner of South 4th Street and Lincoln Street. The site is a relatively flat developed property with existing structures, parking and storage areas. The site is surrounded by vacant and developed industrially zoned properties to the north and west, vacant commercial and medium density residential to the east and developed medium density residential to the south. See Figures 20 and 21 below.

Figure 20, Location Seven, Aerial Map

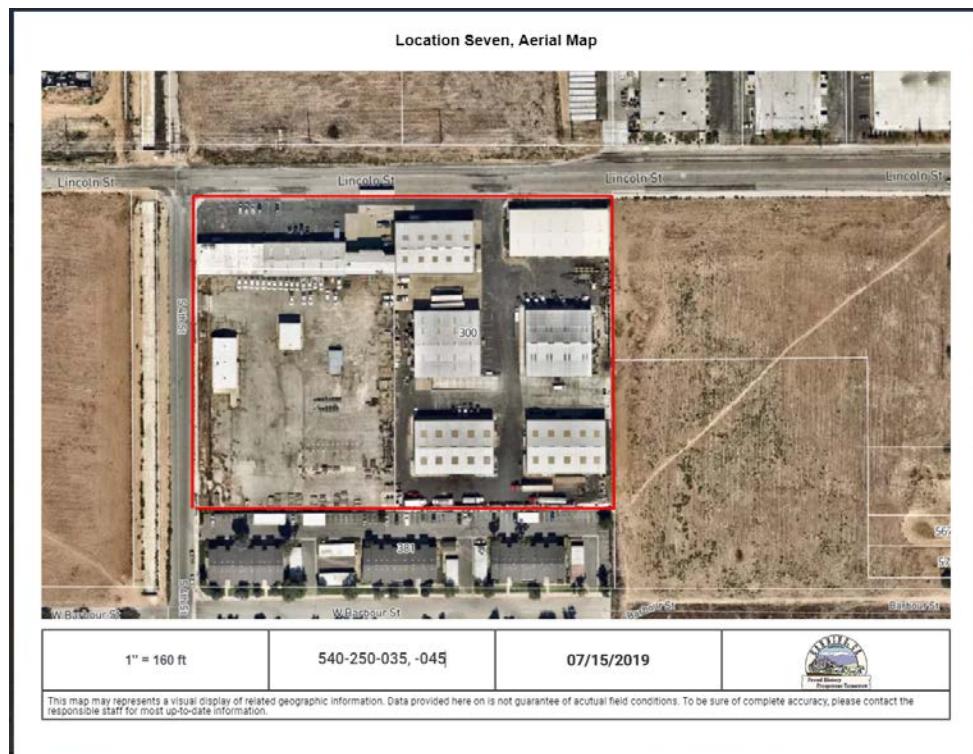
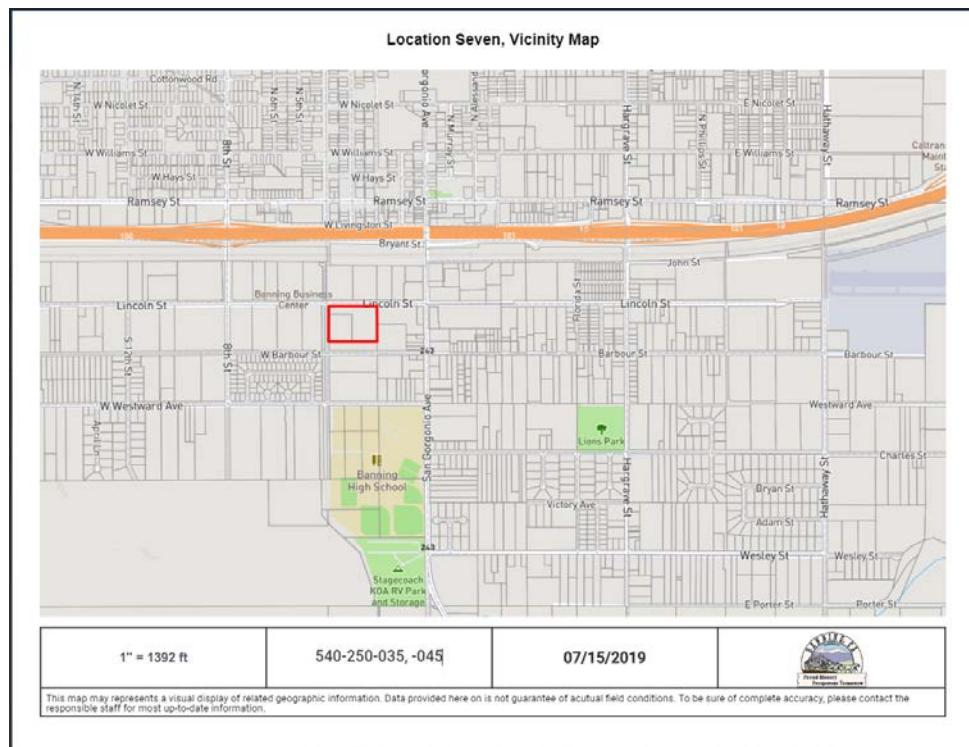
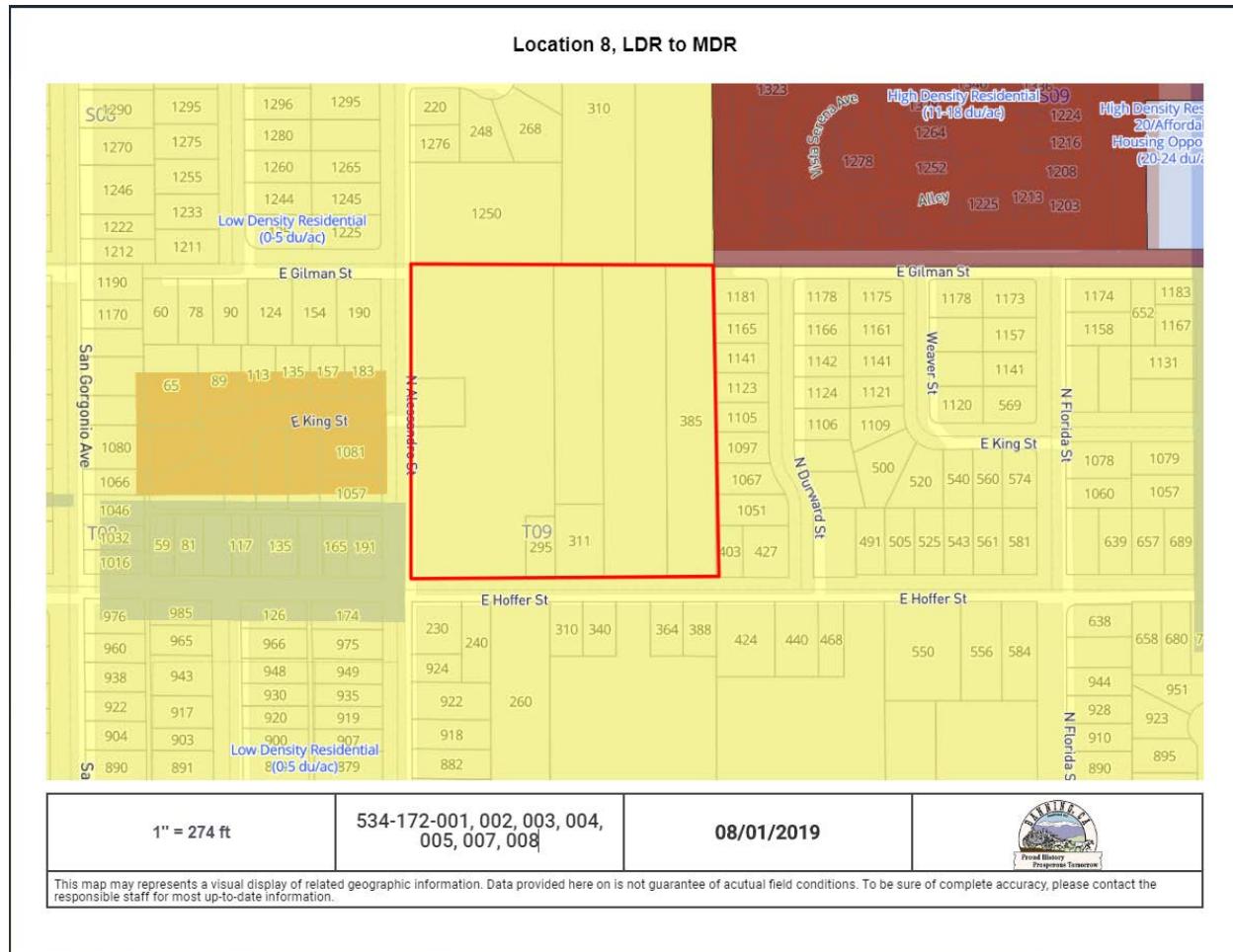


Figure 21, Location Seven, Vicinity Map



8. **Location Eight** consists of seven parcels which are identified as Assessor's Parcel Number's 534-172-001, 002, 003, 004, 005, 007 and 008. The site is currently zoned Low Density Residential. The City proposes to rezone the site to Medium Density Residential to allow for a higher density like the Medium Density Residential zone to the west. See Figure 22 below.

Figure 22, Location Eight, Zoning Map (REMOVED BY PLANNING COMMISSION)



The parcels consist of approximately 9.13-acres located east of North Alessandro Street, west of North Florida Street and north of East Hoffer Street. The site is a relatively flat partially developed property with a gentle slope downward from the northwest corner to the southeast corner. The site is surrounded by Low Density Residential zoning to the east, north and south and to the east is Medium Density Residential and Low Density Residential. See Figures 23 and 24 below.

Figure 23, Location Eight, Aerial Map (REMOVED BY PLANNING COMMISSION)

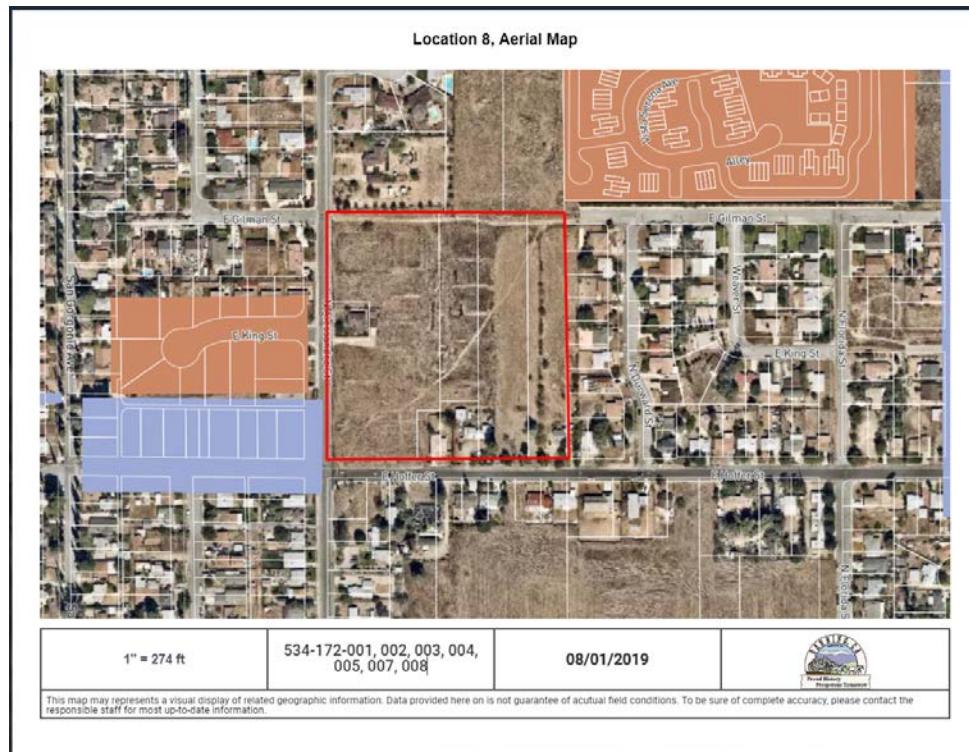
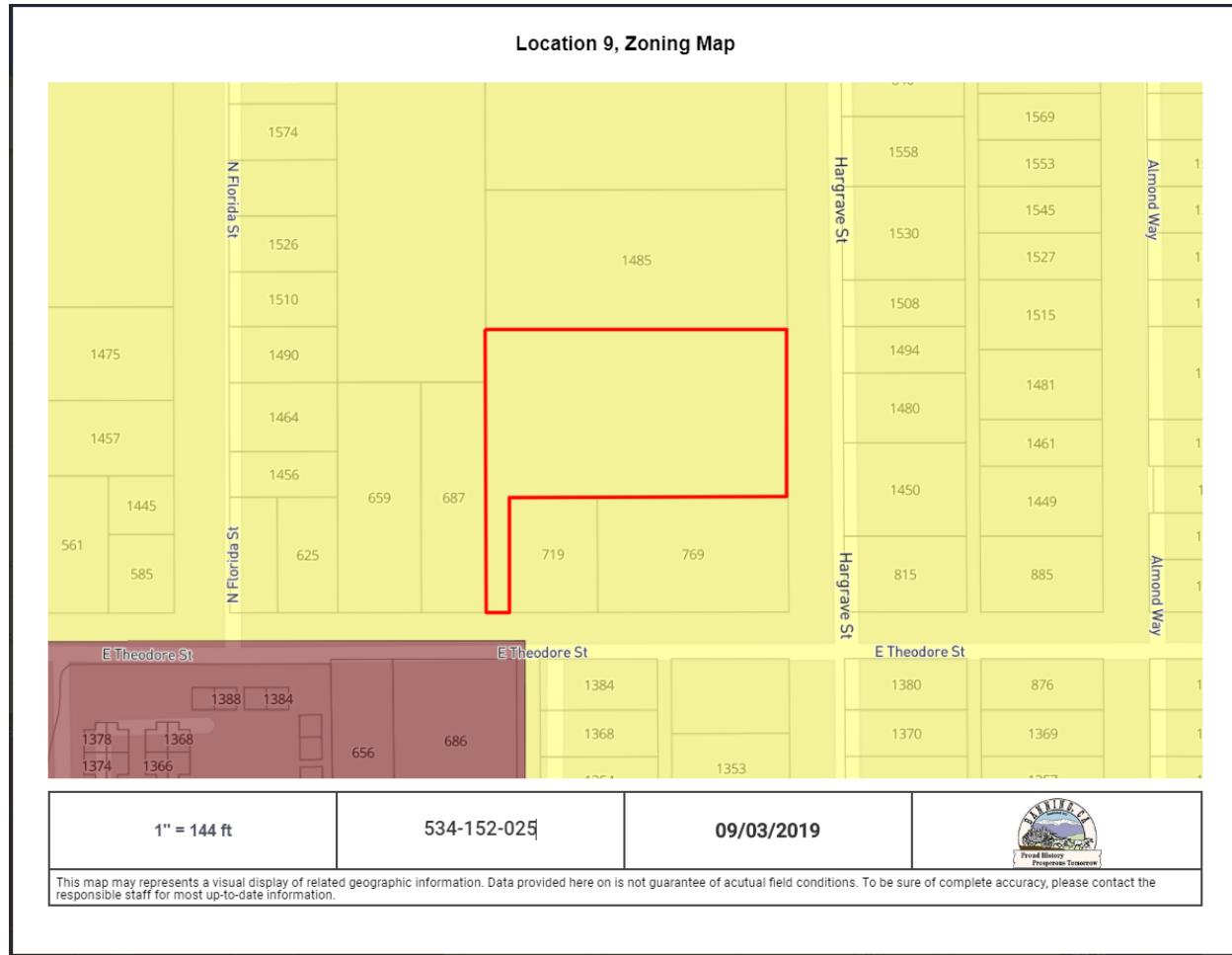


Figure 24, Location Eight, Vicinity Map (REMOVED BY PLANNING COMMISSION)



9. **Location Nine** consist of one parcel which is identified as Assessor's Parcel Number 534-152-025. The vacant site is currently zoned Low Density Residential. The City proposes to rezone the site to Public Facilities-Government to allow the future construction and operation of an Electrical Substation Facility. See Figure 25 below.

Figure 25, Location Nine, Zoning Map



The parcel consists of approximately 1.12-acres located east of North Hargrave Street, and north of East Theodore Street. The site is a relatively flat undeveloped property with a gentle slope downward from the northwest corner to the southeast corner that has been heavily disturbed by human activity and there are signs of disking for weed abatement and fire prevention. The site is surrounded by existing Low Density Residential zoning and development. See Figures 26 and 27 below.

Figure 26, Location Nine, Aerial Map



Figure 27, Location Nine, Vicinity Map



ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

The proposed General Plan Amendment 19-2503 and Zone Change 19-3501 are considered a "project" as defined by the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 et seq.). An Initial Study (EA 19-1505) has been prepared and made available for public review beginning on October 11, 2019 and closing on October 30, 2019.

Based upon analysis contained in the Initial Study, staff determined that all effects on the environment are less than significant level and that the preparation of a Negative Declaration (ND) was appropriate.

TRIBAL CONSULTATION:

In accordance with Senate Bill (SB) 18 and Assembly Bill (AB) 52, letters requesting consultation were sent to the Native American Heritage Commission (NAHC), all tribes listed on the NAHC list, and all tribes who contacted the City requesting notification according to AB 52. As of the date of this report, no tribes have requested consultation.

PUBLIC COMMUNICATION:

The proposed General Plan Amendment and Zone Change was advertised in the Record Gazette newspaper on November 29, 2019 (Attachment 5). As of the date of this report, staff has not received any comments.

ATTACHMENTS:

1. Resolution 2019-164
<https://banningca.gov/DocumentCenter/View/6710/ATTACHMENT-1---CC-RESO-2019-164-GPA-19-2503>
2. Ordinance 1557 <https://banningca.gov/DocumentCenter/View/6711/ATTACHMENT-2---Ordinance-1557-ZC-19-3501>
3. Negative Declaration (Initial Study)
https://banningca.gov/DocumentCenter/View/6712/ATTACHMENT-3--GP-Clean-up-Initial-Study_md
4. Planning Commission Staff Report
https://banningca.gov/DocumentCenter/View/6713/ATTACHMENT-4---GPA-19-2503-Staff-Report_md_abr_20191030
5. Public Hearing Notice/Notice of Intent
https://banningca.gov/DocumentCenter/View/6709/ATTACHMENT-5---Public-Hearing-Notice_Note-of-Intent

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Ted Shove, Economic Development Manager**
Art Vela, Public Works Director

MEETING DATE: **December 10, 2019**

SUBJECT: **Resolutions of Necessity for the Acquisition by Eminent Domain of Certain Real Property Interests for Public Purposes in Connection with the Ramsey-Hathaway Street Improvement Project**

RECOMMENDED ACTION:

That the City Council:

1. Separately consider each of the following five Resolutions, which are Resolutions of Necessity of the City of Banning, declaring certain real property interests necessary for public purposes and authorizing the acquisition thereof in connection with the City's Ramsey/Hathaway Street Improvement Project:
 - Resolution 2019-159
 - Resolution 2019-160
 - Resolution 2019-161
 - Resolution 2019-162
 - Resolution 2019-163
2. Open and conduct a hearing on the adoption of the proposed Resolutions of Necessity, receive from City Staff the evidence stated and referred to in this Agenda Report ("Report"), take testimony from any person wishing to be heard on issues A, B, C, and D below, and consider all evidence to determine whether to adopt each proposed Resolution of Necessity, each of which requires the City Council's separate consideration and determination.

3. If the City Council finds, based on the evidence contained and referred to in this Report, the testimony and comments submitted to the City Council, that the evidence warrants the necessary findings with respect to each of the proposed Resolutions of Necessity, then City Staff recommends that the City Council, in the exercise of its discretion, adopt proposed Resolution of Necessity No. 2019-159, Resolution of Necessity No. 2019-160, Resolution of Necessity No. 2019-161, Resolution of Necessity No. 2019-162, and Resolution of Necessity No. 2019-163 (each of which requires a 4/5ths vote of the entire City Council) and authorize the City Attorney's office to file eminent domain proceedings to acquire the real property interests described below, which include fee areas and temporary construction easements (referred to below collectively as the "Subject Property Interests") from the five parcels described below:

1933 E. Ramsey Street, APN 532-120-012) (Liang Parcel)

- An approximate 3,233 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1933 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 532-120-012, which is owned by Teh Shan Liang (referred to as "Liang Parcel").
- An approximate 1,321 square foot temporary construction easement with a term of nine months on the Liang Parcel to help facilitate the construction of the Project.

1483 E. Ramsey Street, APN 541-170-019 (Huynh Trustees Parcel)

- An approximate 5,285 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1483 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 541-170-019, which is owned by Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust dated August 8, 2007 ("Huynh Trustees Parcel").
- An approximate 90 square foot temporary construction easement with a term of nine months on the Huynh Trustees Parcel to help facilitate the construction of the Project.

APN 541-170-021; northwest corner of E. Ramsey and N. Hathaway (Huang Parcel)

- An approximate 12,146 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at the northwest corner of E. Ramsey Street and

N. Hathaway Street, and identified as Riverside County Tax Assessor's Parcel Number 541-170-021, which is owned by Jen H. Huang (referred to as "Huang Parcel").

- An approximate 3,448 square foot temporary construction easement on the Huang Parcel with a term of nine months to help facilitate the construction of the Project.

1679 E. Ramsey Street, APN 532-120-019 (Terra Firma Parcel)

- An approximate 16,182 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1679 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 532-120-019, which is owned by Terra Firma Enterprises, LLC, a Wyoming Limited Liability Company (referred to as "Terra Firma Parcel"). The 16,182 square foot fee area from the Terra Firma Parcel includes the underlying fee interest in an approximate 12,700 square foot area previously dedicated as an easement for state highway purposes pursuant to the Record of Survey recorded in July 1937 in Book 11, Page 24 of Official Records. It also includes an approximate 3,482 square foot fee area that is not burdened by an existing easement and is needed for the construction of the Project.
- An approximate 4,752 square foot temporary construction easement with a term of nine months on the Terra Firma Parcel to help facilitate the construction of the Project.

APN 532-120-020; northeast corner of E. Ramsey Street and N. Hathaway Street (Burgess Trustees Parcel)

- An approximate 5,692 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at the northeast corner of E. Ramsey Street and N. Hathaway Street, and identified as Riverside County Tax Assessor's Parcel Number 532-120-020, which is owned by Frank J. Burgess and Lorna D. Burgess, Trustees of the Burgess Family Trust DOT December 5, 1989 (referred to as "Burgess Trustees Parcel").
- An approximate 2,575 square foot temporary construction easement with a term of nine months on the Burgess Trustees Parcel to help facilitate the construction of the Project.

The Subject Property Interests, comprised of the above-described fee areas and temporary construction easements, are described more particularly in each respective

Resolution of Necessity. The Resolutions of Necessity with their respective Exhibits are attached hereto and incorporated herein by this reference.

4. If the City Council adopts the proposed Resolutions of Necessity, authorize the City Attorney's Office to file and prosecute eminent domain proceedings for the acquisition of the Subject Property Interests by eminent domain.
5. Authorize the City Manager to execute all necessary documents.
6. Authorize the City Clerk to certify the adoption of this resolution and to have said resolution filed in the book of original resolutions.

DISCUSSION:

Background and Description of Project

The City Council has before it five proposed Resolutions of Necessity for the acquisition by eminent domain of certain real property interests in fee and temporary construction easements in connection with the City's proposed Ramsey-Hathaway Street Improvement Project ("Project"). The City seeks to construct the Project to widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project would also widen Hathaway Street from Ramsey Street approximately 1,400 feet north, and construct a new 12-inch ductile iron water line along Ramsey Street. The Street Improvement Plans for the Project are on file with the Public Works Department and are incorporated herein by this reference.

The Project requires the acquisition in fee of portions of ten larger parcels for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto. The City also needs to acquire temporary construction easements for a period of approximately nine months to facilitate the City's construction of the Project. The City previously acquired by negotiated purchase the acquisition of certain real property interests in fee and TCEs from five larger parcels. The City has attempted to negotiate in good faith with the owners of the remaining five larger parcels to acquire the above-described Subject Property Interests, but the owners have either not responded to the City's communications or the parties have not reached a negotiated acquisition for the Subject Property Interests from the subject five larger parcels. Based on the timing of the Project, it is necessary that the City consider the proposed Resolutions of Necessity at this time.

The City seeks to acquire the Subject Property Interests for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto in connection with the Project. The City seeks to construct the Project to improve capacity, circulation, and enhance safety for its residents and businesses in this area of the City. The Project is consistent with the Circulation Element of the General Plan. The

Circulation Element of the General Plan designates Ramsey Street between Highland Springs Avenue to Fields Road as a Major Highway. The widening of Ramsey Street, as proposed by the Project, will help the City to meet the goals of widening Ramsey Street consistent with the requirements for Major Roadways. The Project will also help to improve the flow of traffic in this area of the City. The improvements to the intersection of Ramsey and Hathaway will help ensure a smooth flow of traffic and help meet the capacity and level of service requirements for this intersection in accordance with the goals of the General Plan. Without the additional lanes along Ramsey Street, intersection along Ramsey Street will operate at below the Level of Service D identified for General Plan buildout. The improvements proposed by the Project will help to meet Policy 6 set forth in the Circulation Element of the General Plan, which seeks to "maintain peak hour Level of Service C or better on all local intersections, except those on Ramsey Street and at I-10 Interchanges where Level of Service D or better shall be maintained." The Project is an essential part of the overall capital improvements planned for the area and will help meet the goals of a safe and efficient transportation system. It will also meet the goal of Program 2.B, which is to improve the aesthetic and safety of potential street improvements.

The Project was planned and located to minimize the impact on the adjacent properties. The Project requires the acquisition of a portion of ten larger parcels owned by private property owners. The construction of the Project will not result in the displacement of any persons from their residences or businesses. The City will coordinate the construction with the owners of the Subject Property Interests to minimize the impact of construction on the parcels. As discussed above, the City has acquired the necessary property interests required from five of the ten larger parcels. Based on the timing of the Project, it is necessary that the City consider the acquisition by eminent domain of the Subject Property Interests needed from the remaining five larger parcels.

The City seeks to acquire the Subject Property Interests for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto in connection with the Project pursuant to the authority conferred on the City of Banning to acquire real property by eminent domain by Section 19 of Article 1 of the California Constitution, Government Code Sections 37350, 37350.5, 37351, 40401 and 40404, California Code of Civil Procedure Section 1230.010 *et seq.* (Eminent Domain Law), including but not limited to Sections 1240.010, 1240.020, 1240.110, 1240.120, 1240.510, 1240.610, 1240.650 and by other provisions of law.

For the reasons set forth above, the construction of the Project is in the public interest and necessity and is needed to improve traffic circulation and facilitate traffic flow in this area of the City.

Required Findings for Adoption of Resolutions of Necessity Authorizing the Acquisition of the Subject Property Interests by Eminent Domain

In order to adopt the proposed Resolutions of Necessity for the acquisition by eminent domain of the Subject Property Interests, the City Council must find and determine, with respect to each Resolution of Necessity, that:

The public interest and necessity require the Project;

The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;

The Subject Property Interests described in each Resolution of Necessity are necessary for the Project; and

The City has made an offer as required by Government Code Section 7267.2 to the owner of record of the real property interest it seeks to acquire.

The amount of just compensation is not an issue before the City Council at this hearing. The hearing relates to issues A, B, C, and D above. The amount of just compensation would be determined in the eminent domain proceedings that would be filed if the City Council, in its sole discretion, adopts each proposed Resolution of Necessity.

Environmental Analysis

The environmental effects of the Project were studied and analyzed pursuant to the California Environmental Quality Act (“CEQA”), Public Resources Code Section 21000 *et seq.*, and the CEQA Guidelines, 14 Cal. Code Regs. Section 15000 *et seq.* (“CEQA Guidelines”). Pursuant to Section 15301 of Article 19 (Categorical Exemptions) of the State CEQA Guidelines, City Staff found that the Project is exempt from CEQA because it involves minor alterations of existing public streets, sidewalks, gutters, and related facilities with negligible expansion.

The environmental effects of the acquisition of the Subject Property Interests were studied as an integral part of the environmental review for the Project. The City Council concurred with City Staff’s determination that the Project qualifies as exempt from CEQA pursuant to Section 15103 of the State CEQA Guidelines because the Project involves minor alterations to existing public streets. The City Council directed City Staff to file a Notice of Exemption in connection with this Project in accordance with CEQA. On February 20, 2019, the City duly filed the Notice of Exemption with the State of California Clearing House in accordance with CEQA. Said Notice of Exemption was filed with the County of Riverside on about April 8, 2019 in accordance with CEQA.

In connection with the proposed Resolutions of Necessity, on December 10, 2019, City Staff reviewed the environmental documentation prepared in connection with the Project.

Pursuant to the criteria of Section 15162 of the CEQA Guidelines and Section 21166 of the Public Resources Code, City Staff concluded that no substantial changes have occurred in the Project, no substantial changes have occurred in the circumstances under which the Project is undertaken, and that the City has obtained no new information of substantial importance that would require further environmental analysis. These environmental findings are the appropriate findings with respect to the proposed acquisition of the Subject Property Interests.

City's Actions Pursuant to Government Code Section 7260 et seq.

Pursuant to Government Code Section 7260 et seq., the City of Banning obtained fair market value appraisals of the Subject Property Interests and the larger parcels of which the Subject Interests are a part, set just compensation in accordance with the appraised fair market values, and extended written offers to the owners of record. The City negotiated in good faith with the record owners. As of the date of this Staff Report, however, the parties have not reached a negotiated agreement. Based on the timing of the Project, it is necessary that the City consider the adoption of the Resolutions of Necessity at this time.

Following is a summary of the actions taken by the City pursuant to Government Code Section 7260 et seq.

1933 E. Ramsey Street, APN 532-120-012) (Liang Parcel)

Pursuant to Government Code Section 7260 et seq., the City of Banning obtained a fair market value appraisal of the Liang Parcel, the approximate 3,233 square foot area that the City seeks to acquire in fee for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, and of the approximate 1,321 square foot temporary construction easement with a term of nine months to help facilitate the construction of the Project. The City set just compensation in accordance with the appraised fair market value, and extended a written offer on November 8, 2018 to Teh Shan Liang, the owner of record. The fair market value appraisal used a date of value of May 28, 2018.

The City's written offer included an informational pamphlet describing the eminent domain process and the record owner's rights under the Eminent Domain Law. In accordance with Government Code Section 7267.2, the City's written offer contained a written statement of, and summary of the basis for, the amount it established as just compensation. The offer set forth the date of value utilized by the appraiser and explained the appraiser's opinion of the highest and best use of the larger parcel. It explained the applicable zoning and General Plan designation of the larger parcel. The City's offer also summarized the principal transactions relied on by the appraiser to arrive at the appraiser's opinion of value. In addition, the written offer explained the appraiser's valuation analysis, including severance damages. It included the City's comparable market data relied on by the appraiser. Further, the City offered, pursuant to Code of Civil

Procedure Section 1263.025, to pay the record owner the reasonable costs, up to \$5,000.00, for an independent appraisal of the approximate 3,233 square foot fee area and the approximate 1,321 square foot temporary construction easement.

The City made several attempts to follow up with the owner regarding the City's offer. After receiving the City's follow-up letter dated September 4, 2019, the owner contacted City Staff and requested a copy of the initial offer letter. The City provided a copy of the offer letter. The owner has not contacted the City after the September 2019 communications. Based on the timing of the Project, it is necessary for the City Council to consider the adoption of the proposed Resolution of Necessity authorizing the acquisition by eminent domain of the Subject Property Interests needed from the Liang Parcel.

1483 E. Ramsey Street, APN 541-170-019 (Huynh Trustees Parcel)

Pursuant to Government Code Section 7260 *et seq.*, the City of Banning obtained a fair market value appraisal of the Huynh Trustees Parcel, the approximate 5,285 square foot area that the City seeks to acquire in fee for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto and of the approximate 90 square foot temporary construction easement with a term of nine months to help facilitate the construction of the Project. The City set just compensation in accordance with the appraised fair market value, and extended a written offer on November 8, 2018 to Raymond Ngoc Huynh and Lucy Nguyen Huynh, Trustees of the Raymond and Lucy Huynh Revocable Trust, dated August 8, 2007, the owners of record. The fair market value appraisal used a date of value of May 28, 2018.

The City's written offer included an informational pamphlet describing the eminent domain process and the record owner's rights under the Eminent Domain Law. In accordance with Government Code Section 7267.2, the City's written offer contained a written statement of, and summary of the basis for, the amount it established as just compensation. The offer set forth the date of value utilized by the appraiser and explained the appraiser's opinion of the highest and best use of the larger parcel. It explained the applicable zoning and General Plan designation of the larger parcel. The City's offer also summarized the principal transactions relied on by the appraiser to arrive at the appraiser's opinion of value. In addition, the written offer explained the appraiser's valuation analysis, including severance damages. It included the City's comparable market data relied on by the appraiser. Further, the City offered, pursuant to Code of Civil Procedure Section 1263.025, to pay the record owner the reasonable costs, up to \$5,000.00, for an independent appraisal of the approximate 5,285 square foot fee area and the approximate 90 square foot temporary construction easement.

The City made several attempts to follow up with the owner regarding the City's offer. The owners' family member initially responded indicating that the owners might obtain an independent appraisal. The owners, however, did not respond to further communications from the City, including the City's most recent follow-up letter dated September 4, 2019.

Based on the timing of the Project, it is necessary for the City Council to consider the adoption of the proposed Resolution of Necessity authorizing the acquisition by eminent domain of the Subject Property Interests needed from the Huynh Trustees Parcel.

APN 541-170-021; northwest corner of E. Ramsey and N. Hathaway (Huang Parcel)

Pursuant to Government Code Section 7260 *et seq.*, the City of Banning obtained a fair market value appraisal of the Huang Parcel, the approximate 12,146 square foot area that the City seeks to acquire in fee for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto and of the approximate 3,448 square foot temporary construction easement with a term of nine months to help facilitate the construction of the Project. The City set just compensation in accordance with the appraised fair market value, and extended a written offer on November 8, 2018 to Jen H. Huang, the owner of record. The fair market value appraisal used a date of value of May 28, 2018.

The City's written offer included an informational pamphlet describing the eminent domain process and the record owner's rights under the Eminent Domain Law. In accordance with Government Code Section 7267.2, the City's written offer contained a written statement of, and summary of the basis for, the amount it established as just compensation. The offer set forth the date of value utilized by the appraiser and explained the appraiser's opinion of the highest and best use of the larger parcel. It explained the applicable zoning and General Plan designation of the larger parcel. The City's offer also summarized the principal transactions relied on by the appraiser to arrive at the appraiser's opinion of value. In addition, the written offer explained the appraiser's valuation analysis, including severance damages. It included the City's comparable market data relied on by the appraiser. Further, the City offered, pursuant to Code of Civil Procedure Section 1263.025, to pay the record owner the reasonable costs, up to \$5,000.00, for an independent appraisal of the approximate 12,146 square foot fee area and the approximate 3,448 square foot temporary construction easement.

The City made several attempts to follow up with the owner regarding the City's offer. The owner has not responded to the City's communications, including the City's most recent follow-up letter dated September 4, 2019. Based on the timing of the Project, it is necessary for the City Council to consider the adoption of the proposed Resolution of Necessity authorizing the acquisition by eminent domain of the Subject Property Interests needed from the Huang Parcel.

1679 E. Ramsey Street, APN 532-120-019 (Terra Firma Parcel)

Pursuant to Government Code Section 7260 *et seq.*, the City of Banning obtained a fair market value appraisal of the Terra Firma Parcel, the approximate 16,182 square foot area that the City seeks to acquire in fee for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto and of the

approximate 4,752 square foot temporary construction easement with a term of nine months to help facilitate the construction of the Project. As discussed above, the 16,182 square foot fee area from the Terra Firma Parcel includes the underlying fee interest in an approximate 12,700 square foot area previously dedicated as an easement for state highway purposes pursuant to the Record of Survey recorded in July 1937 in Book 11, Page 24 of Official Records. It also includes an approximate 3,482 square foot fee area that is not burdened by an existing easement and is needed for the construction of the Project. The City set just compensation in accordance with the appraised fair market value, and extended a written offer on November 8, 2018 to Terra Firma Enterprises, LLC, a Wyoming limited liability company, the owner of record. The fair market value appraisal used a date of value of May 28, 2018.

The City's written offer included an informational pamphlet describing the eminent domain process and the record owner's rights under the Eminent Domain Law. In accordance with Government Code Section 7267.2, the City's written offer contained a written statement of, and summary of the basis for, the amount it established as just compensation. The offer set forth the date of value utilized by the appraiser and explained the appraiser's opinion of the highest and best use of the larger parcel. It explained the applicable zoning and General Plan designation of the larger parcel. The City's offer also summarized the principal transactions relied on by the appraiser to arrive at the appraiser's opinion of value. In addition, the written offer explained the appraiser's valuation analysis, including severance damages. It included the City's comparable market data relied on by the appraiser. Further, the City offered, pursuant to Code of Civil Procedure Section 1263.025, to pay the record owner the reasonable costs, up to \$5,000.00, for an independent appraisal of the approximate 16,182 square foot fee area and the approximate 4,752 square foot temporary construction easement.

The City has met with the owner of the Terra Firma Parcel several times and negotiated in good faith with the owner. As of December 3, 2019, however, the City and the owner of the Terra Firma Parcel have not reached a negotiated agreement. Based on the timing of the Project, it is necessary for the City Council to consider the adoption of the proposed Resolution of Necessity authorizing the acquisition by eminent domain of the Subject Property Interests needed from the Terra Firma Parcel.

APN 532-120-020; northeast corner of E. Ramsey Street and N. Hathaway Street (Burgess Trustees Parcel)

Pursuant to Government Code Section 7260 *et seq.*, the City of Banning obtained a fair market value appraisal of the Burgess Trustees Parcel, the approximate 5,692 square foot area that the City seeks to acquire in fee for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto and of the approximate 2,575 square foot temporary construction easement with a term of nine months to help facilitate the construction of the Project. The City set just compensation in accordance with the appraised fair market value, and extended a written offer on November 8, 2018 to Frank J. Burgess and Lorna D. Burgess, Trustees of the Burgess

Family Trust DOT December 5, 1989, the record owners. The fair market value appraisal used a date of value of May 28, 2018.

The City's written offer included an informational pamphlet describing the eminent domain process and the record owner's rights under the Eminent Domain Law. In accordance with Government Code Section 7267.2, the City's written offer contained a written statement of, and summary of the basis for, the amount it established as just compensation. The offer set forth the date of value utilized by the appraiser and explained the appraiser's opinion of the highest and best use of the larger parcel. It explained the applicable zoning and General Plan designation of the larger parcel. The City's offer also summarized the principal transactions relied on by the appraiser to arrive at the appraiser's opinion of value. In addition, the written offer explained the appraiser's valuation analysis, including severance damages. It included the City's comparable market data relied on by the appraiser. Further, the City offered, pursuant to Code of Civil Procedure Section 1263.025, to pay the record owner the reasonable costs, up to \$5,000.00, for an independent appraisal of the approximate 16,182 square foot fee area and the approximate 4,752 square foot temporary construction easement.

The City has met with Mr. Burgess, one of the record owners of the Burgess Trustees Parcel, several times and negotiated in good faith with the owners. As of December 3, 2019, however, the City and the owners of the Burgess Trustees Parcel have not reached a negotiated agreement. Based on the timing of the Project, it is necessary for the City Council to consider the adoption of the proposed Resolution of Necessity authorizing the acquisition by eminent domain of the Subject Property Interests needed from the Burgess Trustees Parcel.

City's Actions Pursuant to Code of Civil Procedure Section 1245.235

Pursuant to Code of Civil Procedure Section 1245.235, the City sent a letter and a notice by first-class mail dated November 22, 2019 to the record owners of the Subject Property Interests the City seeks to acquire from the Liang Parcel, Huynh Trustees Parcel, Huang Parcel, Terra Firma Parcel, and Burgess Trustees Parcel informing them of the City's intent to consider at its December 10, 2019 meeting, the adoption of a resolution of necessity for the acquisition by eminent domain of the Subject Property Interests from each respective parcel. The notices advised the record owners of their right to appear and be heard regarding the City's proposed adoption of the respective Resolution of Necessity by filing, within fifteen days of the date the notice was mailed, a written request with the City to appear at the hearing. The notices specifically informed the record owners of the Subject Property Interests that they have an opportunity to appear before the City Council and raise questions about whether the public interest and necessity require the Project; whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and whether the Subject Property Interests the City seeks to acquire from the owners of record are necessary for the Project.

As discussed above, based on the proposed timing of the Project, it is necessary for the City Council to consider the adoption of the proposed Resolutions of Necessity at this time.

This hearing relates to issues A, B, C, and D below.

REQUIRED FINDINGS FOR ADOPTION OF RESOLUTIONS OF NECESSITY

A. The Public Interest and Necessity Require the Project

The Project, as planned and designed, is in the public interest and necessity and is needed to improve traffic circulation and efficiency in this area of the City. The City seeks to construct the Project to widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project would also widen Hathaway Street from Ramsey Street approximately 1,400 feet north, and construct a new 12-inch ductile iron water line along Ramsey Street.

As discussed above, the City seeks to construct the Project to improve capacity, circulation and enhance safety for its residents and businesses in this area of the City. The widening of Ramsey Street and resulting improvements to traffic circulation and efficiency in this area during peak hour traffic may also consequently have a beneficial effect on the access and response times of emergency vehicles vital to the public health and safety. Accordingly, the Project will benefit the residents and businesses of the City and the community as a whole.

The Project, as planned and designed, is consistent with the Circulation Element of the General Plan. The Circulation Element of the General Plan designates Ramsey Street between Highland Springs Avenue to Fields Road as a Major Highway. The widening of Ramsey Street, as proposed by the Project, will help the City to meet the goals of widening Ramsey Street consistent with the requirements for Major Roadways. The Project will also help to improve the flow of traffic in this area of the City. The improvements to the intersection of Ramsey and Hathaway will help ensure a smooth flow of traffic and help meet the capacity and level of service requirements for this intersection in accordance with the goals of the General Plan. Without the additional lanes along Ramsey Street, intersection along Ramsey Street will operate at below the Level of Service D identified for General Plan buildout. The improvements proposed by the Project will help to meet Policy 6 set forth in the Circulation Element of the General Plan, which seeks to "maintain peak hour Level of Service C or better on all local intersections, except those on Ramsey Street and at I-10 Interchanges where Level of Service D or better shall be maintained." The Project is an essential part of the overall capital improvements planned for the area and will help meet the goals of a safe and efficient transportation system. It will also meet the goal of Program 2.B, which is to improve the aesthetic and safety of potential street improvements.

The Project, as planned and designed, seeks to minimize the impact on the adjacent properties. The Project requires the acquisition of a portion of ten larger parcels owned by private property owners. The construction of the Project will not result in the displacement of any persons from their residences or businesses. As discussed above, the City has acquired the necessary property interests required from five of the ten larger parcels. Based on the timing of the Project, it is necessary that the City consider the acquisition by eminent domain of the Subject Property Interests needed from the remaining five larger parcels.

The public use for which the City seeks to acquire the Subject Property Interests, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, will not unreasonably interfere with or impair the continuance of the public use to which any easement holders may have appropriated the area (Code of Civil Procedure Section 1240.510). Further, the Project may require the relocation of several utilities to the proposed new right-of-way area. The public use for which the City seeks to acquire the Subject Property Interests, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, is a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650 than the uses to which public utility easement holders have appropriated any utility easements located in the Subject Property Interests that are affected by the Project. Accordingly, the City is authorized to acquire the Subject Property Interests pursuant to Code of Civil Procedure Sections 1240.510, 1240.610 and 1240.650.

B. The Project is Planned and Located in the Manner that will be Most Compatible with the Greatest Public Good and the Least Private Injury

The Project is planned and located in the manner that is most compatible with the greatest public good and the least private injury. The Project is planned and designed to improve traffic circulation and efficiency in this area of the City. The Project will widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project will also widen Hathaway Street from Ramsey Street approximately 1,400 feet north, and construct a new 12-inch ductile iron water line along Ramsey Street.

The City seeks to construct the Project to improve capacity, circulation, and enhance safety for its residents and businesses in this area of the City. The widening of Ramsey Street and resulting improvements to traffic circulation and efficiency in this area during peak hour traffic may also consequently have a beneficial effect on the access and response times of emergency vehicles vital to the public health and safety. Accordingly, the Project will benefit the residents and businesses of the City and the community as a whole.

The Project, as planned and designed, is consistent with the Circulation Element of the General Plan. The Circulation Element of the General Plan designates Ramsey Street between Ramsey Street to Morongo Road as a Major Highway. The widening of Ramsey

Street, as proposed by the Project, will help the City to meet the goals of widening Ramsey Street consistent with the requirements for Major Roadways. The Project will also help to improve the flow of traffic in this area of the City. The improvements to the intersection of Ramsey and Hathaway will help ensure a smooth flow of traffic and help meet the capacity and level of service requirements for this intersection in accordance with the goals of the General Plan. Without the additional lanes along Ramsey Street, intersection along Ramsey Street will operate at below the Level of Service D identified for General Plan buildout. The improvements proposed by the Project will help to meet Policy 6 set forth in the Circulation Element of the General Plan, which seeks to "maintain peak hour Level of Service C or better on all local intersections, except those on Ramsey Street and at I-10 Interchanges where Level of Service D or better shall be maintained." The Project is an essential part of the overall capital improvements planned for the area and will help meet the goals of a safe and efficient transportation system. It will also meet the goal of Program 2.B, which is to improve the aesthetic and safety of potential street improvements.

The Project is planned and located to minimize the impact on the adjacent properties. The Project requires the acquisition of a portion of ten larger parcels owned by private property owners. The construction of the Project will not result in the displacement of any persons from their residences or businesses. The City will coordinate the construction with the owners of the Subject Property Interests to minimize the impact of construction on the parcels. As discussed above, the City has acquired the necessary property interests required from five of the ten larger parcels. Based on the timing of the Project, it is necessary that the City consider the acquisition by eminent domain of the Subject Property Interests needed from the remaining five larger parcels.

Further, the public use for which the City seeks to acquire the Subject Property Interests, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, will not unreasonably interfere with or impair the continuance of the public use to which any easement holders may have appropriated the area (Code of Civil Procedure Section 1240.510). Further, the Project may require the relocation of several utilities to the proposed new right-of-way area. The public use for which the City seeks to acquire the Subject Property Interests, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, is a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650 than the uses to which public utility easement holders have appropriated any utility easements located in the Subject Property Interests that are affected by the Project. Accordingly, the City is authorized to acquire the Subject Property Interests pursuant to Code of Civil Procedure Sections 1240.510, 1240.610 and 1240.650.

C. The Subject Property Interests Described in Each Resolution of Necessity are Necessary for the Project

The City seeks to construct the Project, as planned and designed, to improve traffic circulation and efficiency in this area of the City. The Project will widen Ramsey Street

approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project will also widen Hathaway Street from Ramsey Street approximately 1,400 feet north, and construct a new 12-inch ductile iron water line along Ramsey Street.

The City cannot construct the Project without the acquisition of the following Subject Property Interests, which are described more particularly in each Resolution of Necessity:

1933 E. Ramsey Street, APN 532-120-012) (Liang Parcel)

- An approximate 3,233 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1933 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 532-120-012, which is owned by Teh Shan Liang.
- An approximate 1,321 square foot temporary construction easement with a term of nine months on the Liang Parcel to help facilitate the construction of the Project.

1483 E. Ramsey Street, APN 541-170-019 (Huynh Trustees Parcel)

- An approximate 5,285 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1483 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 541-170-019, which is owned by Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust dated August 8, 2007.
- An approximate 90 square foot temporary construction easement with a term of nine months on the Huynh Trustees Parcel to help facilitate the construction of the Project.

APN 541-170-021; northwest corner of E. Ramsey and N. Hathaway (Huang Parcel)

- An approximate 12,146 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto on the vacant real property located at the northwest corner of E. Ramsey Street and N. Hathaway Street, and identified as Riverside County Tax Assessor's Parcel Number 541-170-021, which is owned by Jen H. Huang.
- An approximate 3,448 square foot temporary construction easement on the Huang Parcel with a term of nine months to help facilitate the construction of the Project.

1679 E. Ramsey Street, APN 532-120-019 (Terra Firma Parcel)

- An approximate 16,182 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1679 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 532-120-019, which is owned by Terra Firma Enterprises, LLC, a Wyoming Limited Liability Company. The 16,182 square foot fee area from the Terra Firma Parcel includes the underlying fee interest in an approximate 12,700 square foot area previously dedicated as an easement for state highway purposes pursuant to the Record of Survey recorded in July 1937 in Book 11, Page 24 of Official Records. It also includes an approximate 3,482 square foot fee area that is not burdened by an existing easement and is needed for the construction of the Project.
- An approximate 4,752 square foot temporary construction easement with a term of nine months on the Terra Firma Parcel to help facilitate the construction of the Project.

APN 532-120-020; northeast corner of E. Ramsey Street and N. Hathaway Street (Burgess Trustees Parcel)

- An approximate 5,692 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at the northeast corner of E. Ramsey Street and N. Hathaway Street, and identified as Riverside County Tax Assessor's Parcel Number 532-120-020, which is owned by Frank J. Burgess and Lorna D. Burgess, Trustees of the Burgess Family Trust DOT December 5, 1989.
- An approximate 2,575 square foot temporary construction easement with a term of nine months on the Burgess Trustees Parcel to help facilitate the construction of the Project.

As stated above, the public use for which the City seeks to acquire the Subject Property Interests, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, will not unreasonably interfere with or impair the continuance of the public use to which any easement holders may have appropriated the area (Code of Civil Procedure Section 1240.510). Further, the Project may require the relocation of several utilities to the proposed new right-of-way area. The public use for which the City seeks to acquire the Subject Property Interests, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, is a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650 than the uses to which public utility easement holders have appropriated any utility easements located in the Subject Property Interests that are affected by the Project. Accordingly, the City is authorized to acquire the Subject Property Interests pursuant to Code of Civil Procedure Sections 1240.510, 1240.610 and 1240.650.

D. The City has made an offer as required by Government Code Section 7267.2 to the owners of record of the Subject Property Interests it seeks to acquire from each of the five subject parcels

The City, pursuant to Government Code Section 7260 *et seq.*, obtained fair market value appraisals of the Subject Property Interests, set just compensation in accordance with the fair market values and extended written offers to the owners of record of the Subject Property Interests. As detailed above, the City extended to the owners of record of the Subject Property Interests a written offer pursuant to Government Code Section 7267.2 to acquire the Subject Property Interests for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto. Specifically, the City extended written offers to the following record owners of the Subject Property Interests:

- The City extended a written offer to Teh Shan Liang to purchase an approximate 3,233 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1933 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 532-120-012. The City also offered to purchase an approximate 1,321 square foot temporary construction easement with a term of nine months on the Liang Parcel to help facilitate the construction of the Project.
- The City extended a written offer to Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust dated August 8, 2007 to purchase an approximate 5,285 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1483 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 541-170-019. The City also offered to purchase an approximate 90 square foot temporary construction easement with a term of nine months on the Huynh Trustees Parcel to help facilitate the construction of the Project.
- The City extended a written offer to Jen H. Huang to purchase an approximate 12,146 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto on the real property located at the northwest corner of E. Ramsey Street and N. Hathaway Street, and identified as Riverside County Tax Assessor's Parcel Number 541-170-021. The City also offered to purchase an approximate 3,448 square foot temporary construction easement on the Huang Parcel with a term of nine months to help facilitate the construction of the Project.
- The City extended a written offer to Terra Firma Enterprises, LLC, a Wyoming Limited Liability Company to purchase an approximate 16,182 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary

or convenient thereto from the real property located at 1679 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 532-120-019). The 16,182 square foot fee area from the Terra Firma Parcel includes the underlying fee interest in an approximate 12,700 square foot area previously dedicated as an easement for state highway purposes pursuant to the Record of Survey recorded in July 1937 in Book 11, Page 24 of Official Records. It also includes an approximate 3,482 square foot fee area that is not burdened by an existing easement and is needed for the construction of the Project construction of the Project. The City also offered to purchase an approximate 4,752 square foot temporary construction easement with a term of nine months on the Terra Firma Parcel to help facilitate the construction of the Project.

- The City extended a written offer to Frank J. Burgess and Lorna D. Burgess, Trustees of the Burgess Family Trust DOT December 5, 1989 to purchase an approximate 5,692 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at the northeast corner of E. Ramsey Street and N. Hathaway Street, and identified as Riverside County Tax Assessor's Parcel Number 532-120-020. The City also offered to purchase an approximate 2,575 square foot temporary construction easement with a term of nine months on the Burgess Trustees Parcel to help facilitate the construction of the Project.

Incorporation of Above-Referenced Documents:

The following documents on file with the City Clerk's Office and/or the Public Works Department, which are referenced in this report, are incorporated herein by this reference:

- Resolutions of Necessity (attached hereto)
- City of Banning General Plan
- Offer letters to the record owners of the Subject Property Interests
- Notices pursuant to Code of Civil Procedure Section 1245.235 to record owners of the Subject Property Interests
- Street Improvement Plans for Project
- Environmental Documents relating to Project

FINANCIAL IMPACT:

The City would plan to deposit the probable amount of just compensation for the Subject Property Interests in the Condemnation Fund of the State Treasurer's Office to obtain orders for prejudgment possession. The estimated compensation for the Subject Property Interests based on the offers sent by the City in November 2018 is \$125,000. The City will obtain updated appraisals (anticipated completion in the next 2.5

weeks). Accordingly, the estimated fair market values may change. The City will also incur litigation costs in connection with any filed eminent domain proceedings, including costs for litigation guarantees, updated appraisals, expert witness costs, and attorney's fees.

ATTACHMENTS:

1. Resolution 2019-159
<https://banningca.gov/DocumentCenter/View/6682/Resolution-2019-159>
2. Resolution 2019-160
<https://banningca.gov/DocumentCenter/View/6683/Resolution-2019-160>
3. Resolution 2019-161
<https://banningca.gov/DocumentCenter/View/6684/Resolution-2019-161>
4. Resolution 2019-162
<https://banningca.gov/DocumentCenter/View/6685/Resolution-2019-162>
5. Resolution 2019-163
<https://banningca.gov/DocumentCenter/View/6686/Resolution-2019-163>

Approved by:



Douglas Schulze
City Manager