



AGENDA

REGULAR MEETING OF THE BANNING CITY COUNCIL

CITY OF BANNING, CALIFORNIA

February 11, 2020
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

1. Invocation – Mountain Avenue Baptist Church
2. Pledge of Allegiance
3. Roll Call – Councilmembers Happe, Wallace, Welch, and Mayor Andrade

II. AGENDA APPROVAL

III. PRESENTATION(S)

1. Mayor's Special Recognition
(Mayor and City Council)
2. Banning High School
(Ralph Wright, Parks & Recreation Director)

IV. REPORT ON CLOSED SESSION

City Attorney

V. 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

None

VI. 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 - 9: Items __, __, __ to be pulled for discussion.

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

1.	Minutes – January 28, 2020, Special Meeting (Closed Session)	1
2.	Minutes – January 28, 2020, Regular Meeting	5
3.	Resolution 2020-2, Approving the Agreement for Purchase and Sale and Escrow Instructions Between the City of Banning and Teh Shan Liang in Connection with the Ramsey-Hathaway Street Improvement Project, Located at 1933 E. Ramsey Street, Portions of APN 532-120-012	53
4.	Resolution 2020-15, Approving the First Amendment to Professional Services Agreement C00622 with Webb & Associates.....	55
5.	Resolution 2020-19, Amending the Transportation Uniform Mitigation Fee (TUMF) Applicable to All Developments in the City of Banning	59
6.	Resolution 2020-20, Authorizing the Purchase of One Heavy Duty Three-Reel Trailer with Tensioners and Rewinds	63
7.	Resolution 2020-21, Accepting Lots A, D, E, F, and G, as Offered on Parcel Map 25541 for Street, Public Utilities and Landscape Purposes ..	65

8. Resolution 2020-22, Approving a Memorandum of Agreement to Form the Coordinated San Timoteo Groundwater Sustainability Agency.....	67
9. Resolution 2020-23, Approving the Acceptance of the 2020 Supplemental Law Enforcement Services Allocation (SLESA) in the Amount of \$100,000	71

VII. PUBLIC HEARING(S):

1. Second Reading of Ordinance 1556, Approving Zoning Text Amendment (ZTA) No. 19-97505 Adopting by Reference the California State Model Water Efficient Landscape Ordinance, Codified at Chapter 2.7 of Title 23 of the California Code of Regulations, and Making Certain Clarifying Revisions to the Landscape Provisions within Title 17 of the Banning Municipal Code and Finding the Project Exempt from CEQA Guidelines Section 15378 and Adopting a Categorical Exemption..... 73
(Staff Report: Adam Rush, Community Development Director)
2. Resolution 2020-24, Approving the Development Agreement and Conditional Use Permit 19-8009, Authorizing the Construction and Operation of an Electronic Message Center at 583 W. Livingston Street in the Downtown Commercial Zoning District and the introduction of Ordinance 1558 77

Recommendation: 1) Adopt Resolution 2020-24 approving the Conditional Use Permit 19-8009, making a determination that the Project is exempt under the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15303 (New Construction of Small Structures) and Section 15332 (Infill Development Projects) to authorize the construction and operation of an Electronic Message Center, at 583 W. Livingston Street in the Downtown Commercial (DC) General Plan Designation and Zoning District subject to the recommended Conditions of Approval 2) Waive further reading and introduce as read by title only, Ordinance 1558.

Mayor asks the City Clerk to read the title of Ordinance 1558

"Ordinance 1558, an Ordinance of the City Of Banning, California, Approving Development Agreement No. 11 Between the City of Banning and AMG Outdoor Advertising, Inc. for the Construction and Operation of an Electronic Message Center in the Downtown Commercial General Plan Designation and Zoning District on Real Property Located at 583 West Livingston Street (APN: 540-192-005.)"

Motion: **I move to waive further reading of Ordinance 1558**
(Requires a majority vote of the Council)

Motion: **I move that Ordinance 1558 pass its first reading**

VIII. ANNOUNCEMENTS AND REPORTS:

CITY COUNCIL COMMITTEE REPORTS

REPORT BY CITY ATTORNEY

REPORT BY CITY MANAGER

REPORTS OF OFFICERS

1. Resolution 2020-16, Approving Amendment No. 1 to the City Manager Employment Agreement with Douglas Schulze **83**
(Staff Report: Kevin Ennis, City Attorney)

Recommendation: Adopt Resolution 2020-16, Approving Amendment No. 1 to the Employment Agreement with Douglas Schulze.

2. Resolution 2020-10, Approving the Electric Utility Director Employment Agreement **87**
(Staff Report: Doug Schulze, City Manager)

Recommendation: Adopt Resolution 2020-10, Approving an Employment Agreement with the Tom Miller, Electric Utility Director.

IX. DISCUSSION ITEM

None

X. ITEMS FOR FUTURE AGENDAS

New Items:

Pending Items:

1. Fee Suspension Update
2. Website Redesign
3. CNG Facility Update
4. New Energy Workshop

XI. ADJOURNMENT

Next Meeting – Tuesday, February 25, 2020 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.

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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.

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

01/28/2020
SPECIAL MEETING - CLOSED SESSION

COUNCIL MEMBERS PRESENT:

Mayor Andrade
Mayor Pro Tem Wallace
Councilmember Happe
Councilmember Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney
Sonja De La Fuente, Deputy City Clerk

I. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Andrade on January 28, 2020, at 4:00 P.M. at the Banning City Council Chamber, 99 E. Ramsey Street, Banning, California.

II. CLOSED SESSION

Mayor Pro Tem Andrade 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 LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6
City designated representatives: Mayor Andrade and City Attorney Ennis
Unrepresented employee: City Manager

2. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6
City designated representative: Douglas Schulze, City Manager
Unrepresented employee: Tom Miller, Electric Utility Director

3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Paragraph (1) of subdivision (d) of Section 54956.9

Name of Case: City of Banning, et al. v. Cali Emerald Care, Inc., et al.

Case No. RIC 1904157

4. 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

5. 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
Golden State Environmental Justice Alliance v. City of Banning;
Case No. RIC 1900654 (Banning Distribution Center Project)

6. 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

7. 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, 1909 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 – Terra 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 Art Vela, Public Works Director

Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements

The meeting convened to closed session at 4:02 p.m. and reconvened to open session at 5:00 p.m.

II. ADJOURNMENT

By consensus, the meeting adjourned at 5:00 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=OFlqAaipHXcq> and related
documents may be found by visiting
<http://www.banningca.gov/ArchiveCenter/ViewFile/Item/2235> or by purchasing a
CD or DVD at Banning City Hall in the amount of \$7.00, located at 99 E. Ramsey
Street.*

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MINUTES
CITY COUNCIL

01/28/2020
REGULAR MEETING

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Douglas Schulze, City Manager
 Kevin G. Ennis, City Attorney
 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
 Laurie Sampson, Executive Assistant
 Leila Lopez, Office Specialist
 Paula Baeza, City Attorney's Office

I. CALL TO ORDER

A regular meeting of the Banning City Council was called to order by Mayor Andrade on January 28, 2020, at 5:05 p.m. at the Banning City Council Chamber, 99 E. Ramsey Street, Banning, California.

Elder Neil Nottingham from the Church of Jesus Christ of Latter-Day Saints offered the invocation.

Mayor Pro Tem Wallace led the audience in the Pledge of Allegiance.

II. AGENDA APPROVAL

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Happe, to approve the agenda. Roll Call vote was taken as follows:

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

III. PRESENTATION(S)

1. Mayor's Special Recognition

The Mayor and City Council presented Certificates of Recognition to Ernest & June Siva with the Dorothy Ramon Learning Center and Sonja De La Fuente with the City of Banning, thanking them for making Banning a better place to work, live, and play.

2. Safety Presentation

Mike Alvarez, Captain with the California Highway Patrol provided the City Council and public with a presentation regarding driver safety and shared two public service announcement (PSA) videos regarding distracted driving and driving under the influence. These videos were created by students of Mt. San Jacinto College. He thanked Councilmember Welch and John Garside for their recommendations and assistance with the project.

IV. REPORT ON CLOSED SESSION

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

1. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

City designated representatives: Mayor Andrade and City Attorney Ennis

Unrepresented employee: City Manager

Direction was given to the City's negotiators.

2. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

City designated representative: Douglas Schulze, City Manager

Unrepresented employee: Tom Miller, Electric Utility Director

Direction was given to the City's negotiator.

3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Paragraph (1) of subdivision (d) of Section 54956.9

Name of Case: City of Banning, et al. v. Cali Emerald Care, Inc., et al.

Case No. RIC 1904157

A status report was provided, with no reportable action.

4. 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, with no reportable action.

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Case No. RIC 1900654 (Banning Distribution Center Project)

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A status report was provided, with no reportable action.

7. 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, 1909 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 – Terra 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 Art Vela, Public Works Director

Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements

A status report was provided, with no reportable action.

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

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

PUBLIC COMMENT(S)

Ellen Carr with Tender Loving Critters informed all that Animal Action League will be in the City of Banning February 5-6, 2020. The shot clinic is from 10:00 a.m. until 2:00 p.m. She explained a story regarding one of their cats that was adopted being impounded and the County wanting to charge \$184 to get the cat back. She expressed concern regarding this high cost for owners to get their pets back.

Inge Schuler supported Ms. Carr's concern regarding animal control and expressed that it is an issue everywhere. She thanked the City for improving upon the content provided in the minutes. She also asked why the City is now using the City seal, as she sees this as a frivolous expense. She pointed out the importance of economic and fiscal health. Finally, she expressed concern about PERS liability being unfunded.

Representatives from the new Nutrition Club invited all to their new location at 157 N. San Gorgonio Avenue in Banning and provided the City Council with a flyer. (Attachment 1)

Linnea Hagen asked about the Banning Business Center and when it would be demolished.

Val Westholder read Don Peterson's resignation letter. She recommended a book titled Politics for Dummies for anyone interested in serving on the City Council.

Paul Perkins informed the Council and public that there was a flight scheduled to land in Ontario coming from China and recommended it go to a military base instead.

Bill Hobbs, 16-year resident of Banning, advised that he mentioned the pothole issues to the California Highway Patrol. He indicated he has attended City Council Meetings for the last couple of years and they have been very informative. He congratulated Positively Banning and the positivity they have brought to the City.

Jerry Westholder, 20-year resident of Banning, shared six things he believes the Lord hates. He informed the Council that it is their job to get things done. He asked about the Highland Springs/Ramsey intersection improvements and Sun Lakes Boulevard extension. He advised that 25% of the taxes from the Pardee development go to Banning, but the school district for this development is Beaumont Unified.

Frank Burgess asked about items one and seven on the Closed Session agenda. He also asked about a policy to read letters at City Council meetings.

Diego Rose thanked the City employees, as he has noticed a lot of work around town. In regard to public safety and healthy cities, he suggested the installation of a crosswalk between City Hall and the Gas Company/Chamber of Commerce and lowering the speed limit on Ramsey Street near Ramsey Street/Omar. He encouraged forethought rather than hindsight.

Seeing no further comments, the Mayor closed Public Comments.

The City Attorney responded to Mr. Burgess in regard to the closed session items he asked about.

The City Manager responded to Mr. Burgess regarding reading letters.

CORRESPONDENCE

None.

APPOINTMENT(S)

None.

VI. CONSENT ITEMS

Mayor Andrade asked if the Council wished to pull an item for discussion. Councilmember Happe pulled items 4 and 5 for discussion.

1. Minutes – January 14, 2020, Special Meeting (Closed Session)
2. Minutes – January 14, 2020, Regular Meeting
3. City Manager Approved Contracts – November & December 2019
6. Approval & Ratification of Accounts Payable & Payroll Warrants - November 2019
7. Approval & Ratification of Accounts Payable & Payroll Warrants - December 2019
8. Capital Improvement Projects Update
9. Police Statistics – November & December 2019
10. Fire Statistics – November & December 2019
11. Ordinance 1554, an Ordinance of the City of Banning, California, Adding a New Chapter 5.88 to, and Deleting Sections 17.108.020(K) and 17.108.070 of Chapter 17.108 of Title 17 from the Banning Municipal Code to Create a Sidewalk Vending Program (***2nd Reading***)
12. Resolution 2020-12, Authorizing the Purchase of a 2020 Kia Sorento in the amount of \$29,333.04

13. Ordinance 1552, an Ordinance of the City of Banning, California, Approving Zoning Text Amendment 19-97503, Amending Section 17.04.070 ("Definitions") of Chapter 17.04 ("Basic Provisions"), Amending Table 17.08.020 of Section 17.08.020 ("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"), Adding a New Section 17.24.180 ("Commercial Cargo/Storage Containers") to Chapter 17.24 ("General Standards"), and Amending Section 17.108.020 ("Permitted Uses") of Chapter 17.108 ("Temporary Use Permits") 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) **(2nd Reading)**
14. Resolution 2020-14, Authorizing the City Manager to Accept and Receive SB2 Grant Funding in the Amount of \$160,000
15. Administrative Policy No. B-34, Discontinuation of Residential Water Service for Urban and Community Water Systems (Senate Bill 998)

Public Comments

None

A motion was made by Councilmember Welch, seconded by Mayor Pro Tem Wallace, to approve consent calendar items 1-3 and 6-15. Electronic vote was taken as follows:

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

Action: Approved Consent Items 1-3 and 6-15.

4. Investment Report – November 2019
5. Investment Report – December 2019

Councilmember Happe asked for a report on consent items 4 and 5.

Deputy Finance Director Suzanne Cook and Administrative Services Director Jennifer Christensen provided the staff report for this item. City Manager Doug Schulze provided further explanation and clarification.

Public Comment

Diego Rose asked about \$30 million in Electric and whether it was included in the numbers on these reports. He also suggested language that is easily understood.

Jerry Westholder asked about \$26 million in Electric and whether it was included in the numbers on these reports.

Seeing no further comments, the Mayor closed Public Comment.

Deputy Finance Director Suzanne Cook and Administrative Services Director confirmed Electric funds were included in the reports.

A motion was made by Councilmember Happe, seconded by Councilmember Welch, to approve consent calendar items 4 and 5. Electronic vote was taken as follows:

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

Action: Approved Consent Items 4 and 5.

VII. PUBLIC HEARING(S)

None

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Councilmember Welch reported on the following:

- RTA will have their summer bus fare program for students beginning as soon as school is out through September. Students who show ID can ride the bus for \$0.25 during the summer months.

Mayor Pro Tem Wallace reported on the following:

- Attended the BLU for Black Public Officials at the City of Rialto where they talked about what is happening in the Inland Empire. She announced that she ran to try and help and that if anyone needs anything to please let her know.
- Community Action wants to do more for Banning. The City needs growth to receive more services.
- February 19th is the Sunrise Banning Breakfast.

- February 17th is the President's Day Parade for the Riverside County Date Festival.

Mayor Andrade reported on the following

- The Downtown Ad Hoc Committee met and discussed the Adopt A Roadway Program. She thanked the Diaz Family for the work they have done.
- Attended the first Policy Committee Meeting for the League of California Cities.
- The School District is conducting a search for a new Superintendent. There is a survey for the community, and they are working to get it on the City's website.
- Attended the Pass Area Veteran's Expo with Councilmember Welch and Mayor Pro Tem Wallace. She thanked Dr. Raul Ruiz for his support of veteran's programs.

Councilmember Happe had nothing to report.

The Mayor recessed the regular meeting at 6:49 p.m. and reconvened at 6:58 p.m.

REPORT BY CITY ATTORNEY

None

REPORT BY CITY MANAGER

City Manager Doug Schulze reported on the following:

- The City is adhering to Banning Municipal Code in utilizing the official seal of the City of Banning, but not incurring additional costs by utilizing existing stationery/paper and updating the logo digitally. The seal will be updated on other items during normal replacement. He reminded all that the logo was never adopted by the City Council by formal vote.
- The Banning Business Center is scheduled for demolition and the Receiver has notified the City they will be in on Wednesday, January 29th to pay for the permit.
- Interstate 10 improvement project will begin soon. They will be improving I-10 from Pennsylvania Avenue in Beaumont, east to Highway 111. A press conference is scheduled for February 4, 2020.
- Ramsey and Highland Springs intersection improvements, Sun Lakes Boulevard extension, Wilson Street widening, Ramsey Street widening projects are in the works. Wilson will be taken care of by Pardee as part of their development.
- Pardee Homes will be paying millions of dollars in Development Impact Fees, which will bring significant revenue to the City.

- Currently Atwell residents fall within the Beaumont Unified School District. However, a committee has been formed by the Board of Education and arguments will be heard.
- City Manager is not present during labor negotiations regarding his contract during Closed Session. The City Council and City Attorney are.
- Mr. Rose's comments will be addressed internally.

REPORTS OF OFFICERS

1. Resolutions of Necessity 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.

Paula Baeza with the City Attorney's Office provided a presentation regarding this item. (Attachment 2) She also provided the Council and Public with an updated version of Resolution 2020-161. (Attachment 3)

Public Comment

Frank Burgess spoke regarding the item. He requested clarification regarding which parcels he owned would be affected. He also asked why he never received a copy of the appraisal.

Public Works Director Art Vela advised showed on the map which parcels would be affected and that the parcel related to Mr. Burgess is on the north side of Ramsey Street only.

City Attorney Ennis advised letters have been sent to Mr. Burgess over the last year and a half and discussions held regarding the north side. He also advised that negotiations may continue even after the resolutions are adopted.

Paula clarified that property owners are not provided a copy of the appraisal; however, they are offered \$5,000 to obtain their own.

A motion was made by Councilmember Happe, seconded by Councilmember Welch, to adopt Resolution 2019-160, 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. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2019-160.

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Happe, to adopt Resolution 2019-161, 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. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2019-161.

A motion was made by Councilmember Welch, seconded by Mayor Pro Tem Wallace, to adopt Resolution 2019-162, 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. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2019-162.

A motion was made by Councilmember Welch, seconded by Councilmember Happe, to adopt Resolution 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. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2019-163.

2. Resolution 2020-11, Approving the Financial Analysis, Redevelopment and Proposition 218 of Landscape Maintenance District No. 1 ("LMD No. 1") Report.

Public Works Director Art Vela provided a presentation regarding this item. (Attachment 3)

Public Comment

John Hagan indicated that he hopes the Prop. 218 Notice will be clear. He mentioned that Zone 8 only has 35 homes. Also, he is concerned with the work being done and encouraged people to look at the work.

Ellen Carr indicated she noticed one of the increases were \$13.80 per month and that her Social Security increase was only \$14 per month. She asked if people were complaining.

Seeing no further comments, the Mayor closed public comment.

Councilmember Happe asked if the costs include administration. Public Works Director Vela indicated that they do.

Mayor Pro Tem Wallace asked that the notice include language the citizens can understand.

A motion was made by Councilmember Happe, seconded by Councilmember Happe, to adopt Resolution 2020-11, approving the Financial Analysis, Redevelopment and Proposition 218 of LMD No. 1 Report prepared by Webb Municipal Finance, LLC. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2020-11.

3. Resolution 2020-13, Approving the Banning Municipal Airport's Airport Capital Improvement Plan (ACIP) for 2020-2024.

Public Works Director Art Vela provided the staff report for this item as contained in the agenda packet.

The Mayor asked why the City is continuing to improve the airport if it plans on closing. Public Works Director Vela explained that the City must continue to maintain for safety reasons and to remain in good graces of the FAA.

Public Comment

None

A motion was made by Councilmember Welch, seconded by Mayor Pro Tem Wallace, adopt Resolution 2020-13, approving the five-year (2020-2024) Airport Capital Improvement Plan (ACIP) and direct staff to submit the ACIP to the Federal Aviation Administration (FAA). Electronic vote was taken as follows:

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

Action: **Adopted Resolution 2020-13.**

IX. DISCUSSION ITEM

None

CITY COUNCIL – Next Meeting, February 11, 2020, 5:00 p.m.

X. ITEMS FOR FUTURE AGENDAS

XI. ADJOURNMENT

By consensus, the meeting was adjourned at 8:19 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=OFlqAaipHXcq>, and
<https://banninglive.viebit.com/player.php?hash=fqqUVRw0Rr78> and related
documents may be viewed here:

<https://banningca.gov/ArchiveCenter/ViewFile/Item/2236> or by purchasing a CD or
DVD in the amount of \$7.00 at Banning City Hall located at 99 E. Ramsey Street.

ATTACHMENT 1

NUTRITION CLUB

WE INVITE YOU TO OUR NUTRITION CLUB
137 N. SAN GORGONIO • BANNING, CA

**IMPROVE YOUR NUTRITION
INCREASE YOUR ENERGY
CONTROL YOUR WEIGHT**

Carlos Lozano
(951) 457-9840



Hours:	Morning	Afternoon
Monday	7:00-12:00	5:00-7:30
Tuesday	7:00-12:00	5:00-7:30
Wednesday	7:00-12:00	Closed
Thursday	7:00-12:00	5:00-7:30
Friday	7:00-12:00	5:00-7:30
Saturday	8:00-10:00	Closed
Sunday	8:00-10:00	Closed

CLUB DE NUTRICION

LOS INVITAMOS A NUESTRO CLUB DE NUTRICION

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MEJORE SU NUTRICION

AUMENTE SU ENERGIA

CONTROLE SU PESO

Sadia Lozano
(951) 457-9765



Horario:	Mañana	Tarde
Lunes	7:00-12:00	5:00-7:30
Martes	7:00-12:00	5:00-7:30
Miercoles	7:00-12:00	Cerrado
Jueves	7:00-12:00	5:00-7:30
Viernes	7:00-12:00	5:00-7:30
Sabado	8:00-10:00	Cerrado
Domingo	8:00-10:00	Cerrado

ATTACHMENT 2



CITY OF BANNING RAMSEY-HATHAWAY STREET IMPROVEMENT PROJECT

Consideration of adoption of Resolutions of Necessity authorizing the acquisition of certain property interests by eminent domain in connection with the Ramsey-Hathaway Street Improvement Project (Project)

- Resolution 2019-160
- Resolution 2019-161
- Resolution 2019-162
- Resolution 2019-163

1



DESCRIPTION OF PROJECT

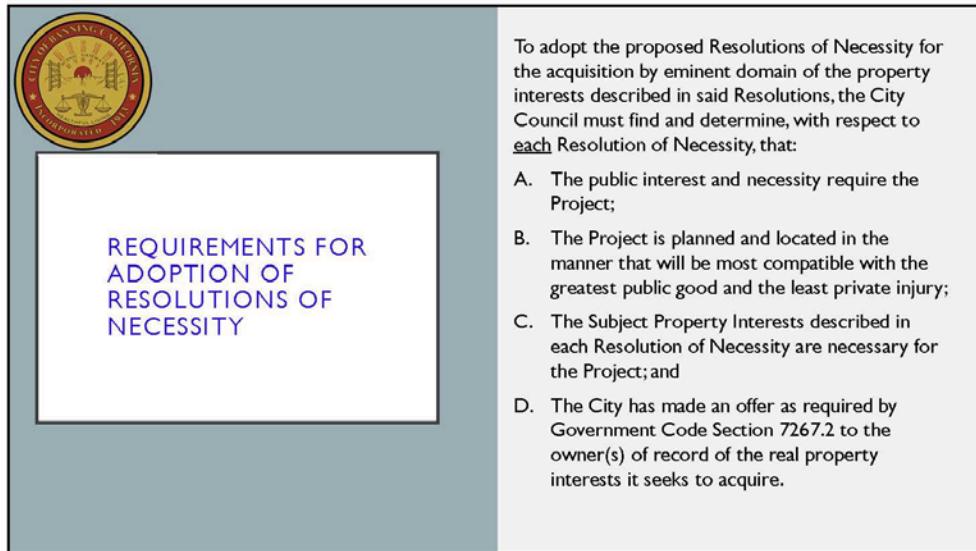
The City seeks to construct the Project to widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street.

The Project would widen Hathaway Street from Ramsey Street approximately 1,400 feet north, and construct a new 12-inch ductile iron water line along Ramsey Street.

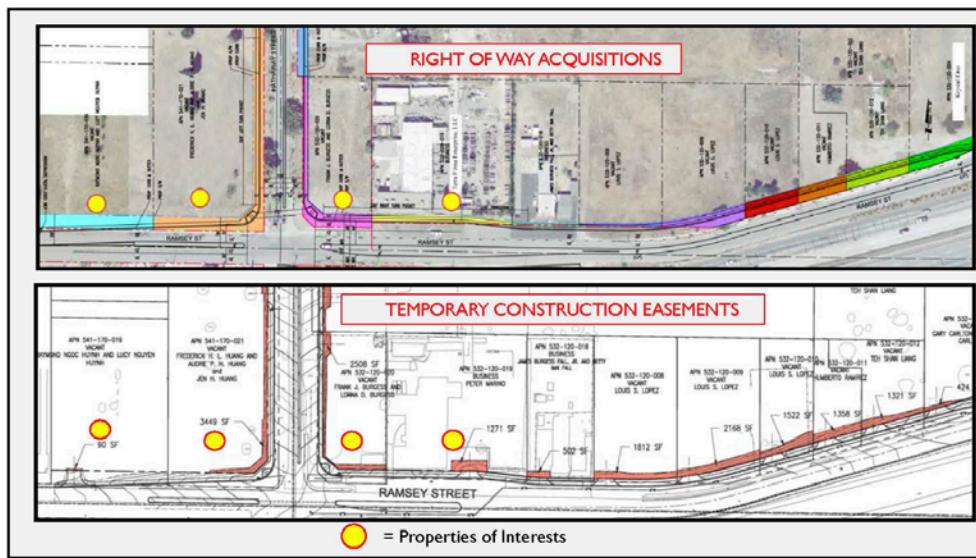
- The construction of Project requires the acquisition of portions of ten larger parcels in fee for right of way and the use of temporary construction easements to facilitate the construction of the Project.
- The City has acquired the necessary property interests from five of these parcels and will consider a Purchase and Sale Agreement for a sixth parcel at a later date.
- This hearing relates to the City Council's consideration of four Resolutions of Necessity to authorize the acquisition by eminent of the necessary property interests from the remaining four parcels.

2

1



3



4

2



PUBLIC INTEREST AND NECESSITY REQUIRE 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 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 is consistent with the Circulation Element of the General Plan. The Circulation Element of the General Plan designates Ramsey Street between Hathaway 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.

5



PUBLIC INTEREST AND NECESSITY REQUIRE PROJECT

- 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, the intersection along Ramsey Street will operate at below the Level of Service D identified for General Plan buildout.
- 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.

6

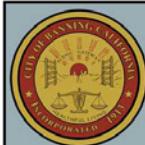
3



PROJECT IS PLANNED AND LOCATED IN THE MANNER
THAT WILL BE MOST COMPATIBLE WITH THE GREATEST
PUBLIC GOOD AND THE LEAST PRIVATE INJURY

- The above facts also support the finding that the Project is planned and located in the manner that will most compatible with the greatest public good and the least private injury.
- The Project, as planned and designed, seeks to minimize the impact on the adjacent properties. The City has acquired the necessary property interests from five parcels and will consider an Agreement for the negotiated purchase of the property interests needed from a sixth parcel at a later date.
- The construction of the Project will not result in the displacement of any persons from their residences or businesses.

7



SUBJECT PROPERTY
INTERESTS DESCRIBED
IN EACH RESOLUTION
OF NECESSITY ARE
NECESSARY FOR THE
PROJECT

Resolution No. 2019-160

➤ The City needs to acquire 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.

➤ The City also needs to acquire 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.

8

4



SUBJECT PROPERTY
INTERESTS DESCRIBED
IN EACH RESOLUTION
OF NECESSITY ARE
NECESSARY FOR THE
PROJECT

Resolution No. 2019-161

- The City needs to acquire 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.
- The City also needs to acquire 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.

9



SUBJECT PROPERTY
INTERESTS DESCRIBED
IN EACH RESOLUTION
OF NECESSITY ARE
NECESSARY FOR THE
PROJECT

Resolution No. 2019-162

- The City needs to acquire 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.
- The City also needs to acquire 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.

10

5



SUBJECT PROPERTY
INTERESTS DESCRIBED IN
EACH RESOLUTION OF
NECESSITY ARE
NECESSARY FOR THE
PROJECT

Resolution No. 2019-163

- The City needs to acquire 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.
- The City also needs to acquire 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.

11



CITY EXTENDED OFFER TO RECORD OWNERS OF
SUBJECT PROPERTY INTERESTS IN ACCORDANCE WITH
GOVERNMENT CODE SECTION 7627.2

- The City obtained independent appraisals, set just compensation, and extended written offers in November 2018 to the owners of record of the Subject Property Interests.

12

6



RECOMMENDED ACTION:

That the City Council:

1. Separately consider the above four Resolutions, which are Resolutions of Necessity 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.
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 the Agenda Report, take testimony from any person wishing to be heard on the above, 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 the Agenda Report, the testimony and written 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 2019-160, Resolution of Necessity 2019-161, Resolution of Necessity 2019-162, and Resolution of Necessity 2019-163 (each of which requires a 4/5ths vote of the entire City Council).

13



RECOMMENDED ACTION (CONT.):

That the City Council:

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 each Resolution of Necessity and to have said Resolutions filed in the book of original resolutions.

14

7

ATTACHMENT 3

RESOLUTION 2019-161

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
DECLARING CERTAIN REAL PROPERTY INTERESTS NECESSARY FOR PUBLIC
PURPOSES AND AUTHORIZING THE ACQUISITION THEREOF IN CONNECTION
WITH THE RAMSEY-HATHAWAY STREET IMPROVEMENT PROJECT (PORTIONS
OF APN 541-170-021)**

WHEREAS, the City of Banning ("City") is a municipal corporation in the County of Riverside, State of California; and

WHEREAS, the City seeks to construct the Ramsey-Hathaway Street Improvement Project ("Project") to improve circulation in this area of the City. The Project, as planned and designed, 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. Further, the Project will construct a new 12-inch ductile iron water line along Ramsey Street; and

WHEREAS, the City studied the environmental effects of the subject road widening Project in accordance with the California Environmental Quality Act ("CEQA"). 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 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. In February 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 or about April 8, 2019 in accordance with CEQA.

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

SECTION 1. The Banning City Council adopts Resolution 2019-161, A Resolution of the City Council of the City of Banning, California, Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition Thereof in Connection with the Ramsey-Hathaway Street Improvement Project (Portions of APN 541-170-021).

SECTION 2. The City seeks to acquire by eminent domain the real property interests described below in Section 3 of this Resolution for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto in connection with the Ramsey-Hathaway Street Improvement 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.

SECTION 3. The City seeks to acquire in fee an approximate 12,146 square foot portion ("Subject Fee Property") of the real property located at the northwest corner of E. Ramsey Street and North Hathaway Street, Banning, California, and identified as Riverside County Tax Assessor's Parcel Number 541-170-021 ("Huang Parcel") in connection with the Project. The Subject Fee Property is described more particularly in Exhibit "A-1" and depicted on Exhibit "B-1", which are attached hereto and incorporated herein by this reference. The City also seeks to acquire an approximate 3,448 square foot temporary construction easement ("TCE") on the Huang Parcel for a period of nine months to facilitate the construction of the Project. The TCE is described more particularly in Exhibit "A-2" and depicted on Exhibit "B-2", which are attached hereto and incorporated herein by this reference.

SECTION 4. The environmental effects of the acquisition of the Subject Fee Property and TCE were studied as an integral part of the environmental review for the Project. 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 Fee Property and TCE.

SECTION 5. 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.

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 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.

SECTION 6. 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 Subject Fee Property 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 TCE 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 Subject Fee Property and the approximate 3,448 square foot TCE.

SECTION 7. The City provided written notice to the owner of record pursuant to Code of Civil Procedure section 1245.235 of the City Council's intent to consider the adoption of

a Resolution of Necessity for the acquisition of the Subject Fee Property and TCE by eminent domain.

SECTION 8. The public use for which the City seeks to acquire the Subject Fee Property and TCE, 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 Fee Property and TCE, 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 area of the Subject Fee Property and TCE that are affected by the Project. Accordingly, the City is authorized to acquire the Subject Fee Property and TCE pursuant to Code of Civil Procedure Sections 1240.510, 1240.610, and 1240.650.

SECTION 9. Based on the evidence presented at the hearing regarding the Project, including the Agenda Report and documents referenced therein and any oral and written testimony at the hearing, the City Council hereby finds and determines that:

1. The public interest and necessity require the Project;
2. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
3. The Subject Fee Property described more particularly in Exhibit "A-1" and depicted on Exhibit "B-1" hereto, and the TCE described more particularly in Exhibit "A-2" and Exhibit "B-2" hereto are necessary for the Project; and
4. The City has made the offer required by Government Code Section 7267.2 to the record owner of the Subject Fee Property and TCE the City seeks to acquire.

SECTION 10. The findings and declarations contained in this Resolution are based upon the record before the City Council, including the Agenda Report and all documents referenced therein, all of which are incorporated herein by this reference, and any testimony and/or comments submitted to the City by the record owner and or the owner's representative(s). These documents include, but are not limited to the City of Banning General Plan, the offer letter sent to the owner pursuant to Government Code Section 7267.2, the notice to the record owner pursuant to Code of Civil Procedure Section 1245.235 of the City's intent to consider the adoption of the Resolution of Necessity, Street Improvement Plans for the Project, and the Notice of Exemption for the Project.

SECTION 11. The City Council of the City of Banning hereby authorizes and directs the City Attorney's Office to take all steps necessary to commence and prosecute legal proceedings in a court of competent jurisdiction to acquire in fee by eminent domain the approximate 12,146 square foot Subject Fee Property for the Project and the approximate

3,448 square foot TCE for a period of nine months to facilitate the construction of the Project. The Subject Fee Property is described more particularly on Exhibit "A-1" and depicted on Exhibit "B-1" hereto, and the TCE is described more particularly on Exhibit "A-2" and depicted on Exhibit "B-2" hereto.

SECTION 12. The City Council of the City of Banning hereby authorizes the City Manager to execute all necessary documents in connection with the eminent domain proceeding.

SECTION 13. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 28th day of January 2020.

Daniela Andrade, Mayor
City of Banning

ATTEST:

Sonia De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sonia De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-161, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28th day of January, 2020, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

Exhibit "A-1"||
Legal Description-Subject-Fee-Property||

EXHIBIT "A"
RIGHT-OF-WAY DEDICATION - A.P.N. 541-170-021

THAT PORTION OF BLOCK 172 OF BANNING COLONY LANDS, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, PER MAP FILED IN BOOK 5, PAGE 186 OF MAPS, LYING WITHIN THE LAND DESCRIBED IN A GRANT DEED TO FREDERICK H. L. HUANG AND AUDRIE P. H. HUANG, HUSBAND AND WIFE, AND JEN H. HUANG, A SINGLE MAN, RECORDED FEBRUARY 5, 1988 AS INSTRUMENT NO. 32916 OF OFFICIAL RECORDS, ALL IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTERLINE INTERSECTION OF RAMSEY STREET AND HATHAWAY STREET AS SHOWN ON CASTILLA SUBDIVISION, IN SAID CITY OF BANNING, PER MAP FILED IN BOOK 14, PAGE 88 OF MAPS, IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE, ALONG SAID CENTERLINE OF RAMSEY STREET, NORTH 89°04'51" WEST, 230.03 FEET TO THE SOUTHWESTERLY CORNER OF SAID LAND DESCRIBED IN A GRANT DEED RECORDED FEBRUARY 5, 1988 AS INSTRUMENT NO. 32916 OF OFFICIAL RECORDS;

THENCE, ALONG THE WESTERLY LINE OF SAID LAND DESCRIBED IN A GRANT DEED RECORDED FEBRUARY 5, 1988 AS INSTRUMENT NO. 32916 OF OFFICIAL RECORDS, NORTH 00°03'38" EAST, 55.01 FEET TO A LINE PARALLEL WITH AND 55.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

THENCE, TRAVERSING THE INTERIOR OF SAID BLOCK 172, THE FOLLOWING COURSES:

ALONG SAID PARALLEL LINE, SOUTH 89°04'51" EAST, 155.67 FEET;

NORTH 46°41'26" EAST, 33.49 FEET TO A LINE PARALLEL WITH AND 50.00 FEET WESTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

ALONG SAID PARALLEL LINE, NORTH 00°03'38" EAST, 319.65 FEET TO THE SOUTHERLY LINE OF THE NORTHERLY 230.00 FEET OF SAID BLOCK 172;

ALONG SAID SOUTHERLY LINE OF THE NORTHERLY 230.00 FEET OF BLOCK 172, SOUTH 89°26'22" EAST, 50.00 FEET TO SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID CENTERLINE OF HATHAWAY STREET, SOUTH 00°03'38" WEST, 398.33 FEET TO THE **POINT OF BEGINNING**.

EXCEPTING THEREFROM THOSE PORTIONS INCLUDED WITHIN THE EXISTING RIGHT-OF-WAY OF HATHAWAY STREET AND THE EXISTING RIGHT-OF-WAY OF RAMSEY STREET.

CONTAINING 12,146 SQUARE FEET, MORE OR LESS.

Exhibit "A-1"¶

EXHIBIT "A"
RIGHT-OF-WAY DEDICATION - A.P.N. 541-170-021

ALSO AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND HEREBY MADE A PART
HEREOF.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS,
EASEMENTS, AND RIGHTS-OF-WAY OF RECORD, IF ANY.



PREPARED BY: STANTEC CONSULTING INC.
UNDER THE DIRECTION OF:

James O. Steine
JAMES O. STEINES, P.L.S. 6086

APRIL 4, 2012
J.N. 2042 473201

Exhibit "B-1" ¶
Depiction-Subject-Fee-Property ¶

EXHIBIT "B"

SHEET 1 OF 2

A PORTION OF BLOCK 172 OF BANNING COLONY LANDS, M.B. 5 / 186,
IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

RIGHT-OF-WAY DEDICATION - APN 541-170-021

C/L NICOLET STREET

C/L JACINTO
VIEW ROAD

MEXI-AMERI
M.B. 20 / 59
N 541-
D-020

C/L WILLIAMS STREET

BANWING POR.	BLOCK COLONY W.B. 5	772 LANDS 186
APN 541- 170-019		APN 541- 170-021

C/L RAMSEY STREET

CASTILLA SUBDIVISION
M.B. 14 / 88

32- C/L HATHAWAY STREET

APN 532-110-004

1997 1/4, SECTION 11
T. 3 S., R. 1 E., S.B.M.

AFN 532-120-001

APN 532-120-002

10

INTERSTATE

SW 1/4, SECTION 11
T. 3 S., R. 1 E., S.B.M.

SCALE: 1" = 300'



James O. Steine
JAMES O. STEINE, P.L.S. G086

C:\projects\2042473200\SURMAP\DWG\5YME019.dwg 1/1/2012 7:25:36 AM PDT



STANTEC CONSULTING INC.
19 TECHNOLOGY DRIVE
IRVINE, CA 92618
(714) 823-4000

star99.com

JN 2042 473201

11303-0019\2366.546v2.doc

Exhibit-B-1

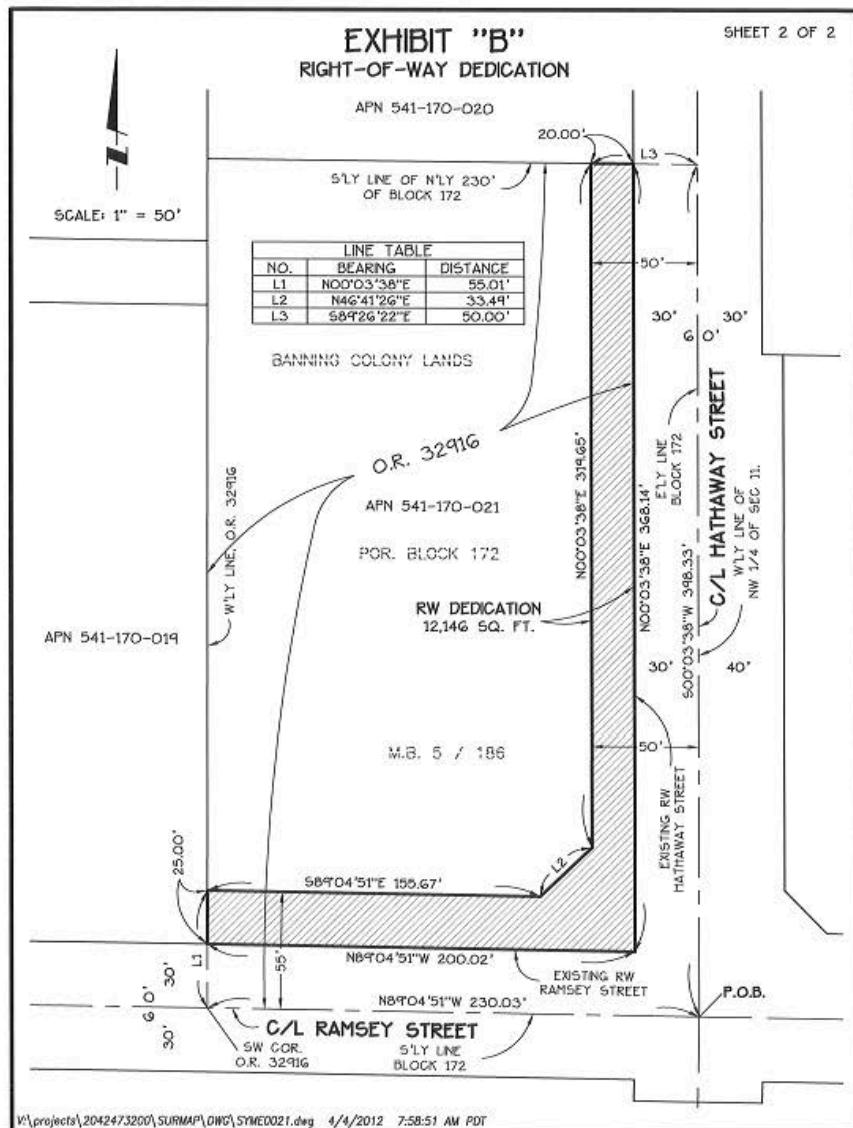


Exhibit "A-2"¶
Legal Description-Temporary Construction Easement¶

THAT PORTION OF BLOCK 172 OF BANNING COLONY LANDS, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, PER MAP FILED IN BOOK 5, PAGE 186 OF MAPS, LYING WITHIN THE LAND DESCRIBED IN A GRANT DEED TO FREDERICK H. L. HUANG AND AUDRIE P. H. HUANG, HUSBAND AND WIFE, AND JEN H. HUANG, A SINGLE MAN, RECORDED FEBRUARY 5, 1988 AS INSTRUMENT NO. 32916 OF OFFICIAL RECORDS, ALL IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTERLINE INTERSECTION OF RAMSEY STREET AND HATHAWAY STREET AS SHOWN ON CASTILLA SUBDIVISION, IN SAID CITY OF BANNING, PER MAP FILED IN BOOK 14, PAGE 88 OF MAPS, IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE, ALONG SAID CENTERLINE OF HATHAWAY STREET, NORTH 00°03'38" EAST, 658.34 FEET TO THE INTERSECTION WITH THE CENTERLINE OF WILLIAMS STREET AS SHOWN ON MEX-AMERI MAP, IN SAID CITY OF BANNING, PER MAP FILED IN BOOK 20, PAGE 69 OF MAPS, IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE, ALONG SAID CENTERLINE OF WILLIAMS STREET, NORTH 89°26'22" WEST, 73.51 FEET;

THENCE, PERPENDICULAR TO SAID CENTERLINE OF WILLIAMS STREET, SOUTH 00°33'38" WEST, 30.00 FEET TO THE NORTHERLY LINE OF SAID BLOCK 172;

THENCE, TRAVERSING THE INTERIOR OF SAID BLOCK 172, THE FOLLOWING COURSES:

SOUTH 29°39'59" EAST, 31.81 FEET TO A LINE PARALLEL WITH AND 58.00 FEET WESTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 82.01 FEET;

PERPENDICULAR TO SAID CENTERLINE OF HATHAWAY STREET, NORTH 89°56'22" WEST, 3.00 FEET TO A LINE PARALLEL WITH AND 61.00 FEET WESTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 142.49 FEET;

PERPENDICULAR TO SAID CENTERLINE OF HATHAWAY STREET, SOUTH 89°56'22" EAST, 4.00 FEET TO A LINE PARALLEL WITH AND 57.00 FEET WESTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 225.05 FEET;

PERPENDICULAR TO SAID CENTERLINE OF HATHAWAY STREET, NORTH 89°56'22" WEST, 3.00 FEET TO A LINE PARALLEL WITH AND 60.00 FEET WESTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

Exhibit A-2¶

ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 65.60 FEET;

SOUTH 46°41'26" WEST, 29.06 FEET;

SOUTH 86°36'56" WEST, 73.29 FEET;

SOUTH 00°55'09" WEST, 59.50 FEET TO SAID CENTERLINE OF RAMSEY STREET;

ALONG SAID CENTERLINE OF RAMSEY STREET, SOUTH 89°04'51" EAST, 155.19 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THOSE PORTIONS INCLUDED WITHIN THE EXISTING RIGHT-OF-WAY OF HATHAWAY STREET AND THE EXISTING RIGHT-OF-WAY OF RAMSEY STREET.

ALSO EXCEPTING THEREFROM THAT PORTION INCLUDED WITHIN THE RIGHT-OF WAY DEDICATION TO THE CITY OF BANNING RECORDED _____, AS DOCUMENT NO. _____, OFFICIAL RECORDS OF SAID COUNTY.

CONTAINING 3,448 SQUARE FEET, MORE OR LESS.

ALSO AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND HEREBY MADE A PART HEREOF.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS, AND RIGHTS-OF-WAY OF RECORD, IF ANY.



PREPARED BY: STANTEC CONSULTING INC.
UNDER THE DIRECTION OF:


MINH A. LE, P.L.S. 8543

MARCH 7, 2018
J.N. 2073013430

Exhibit "B-2"||
Depiction of Temporary Construction Easement||

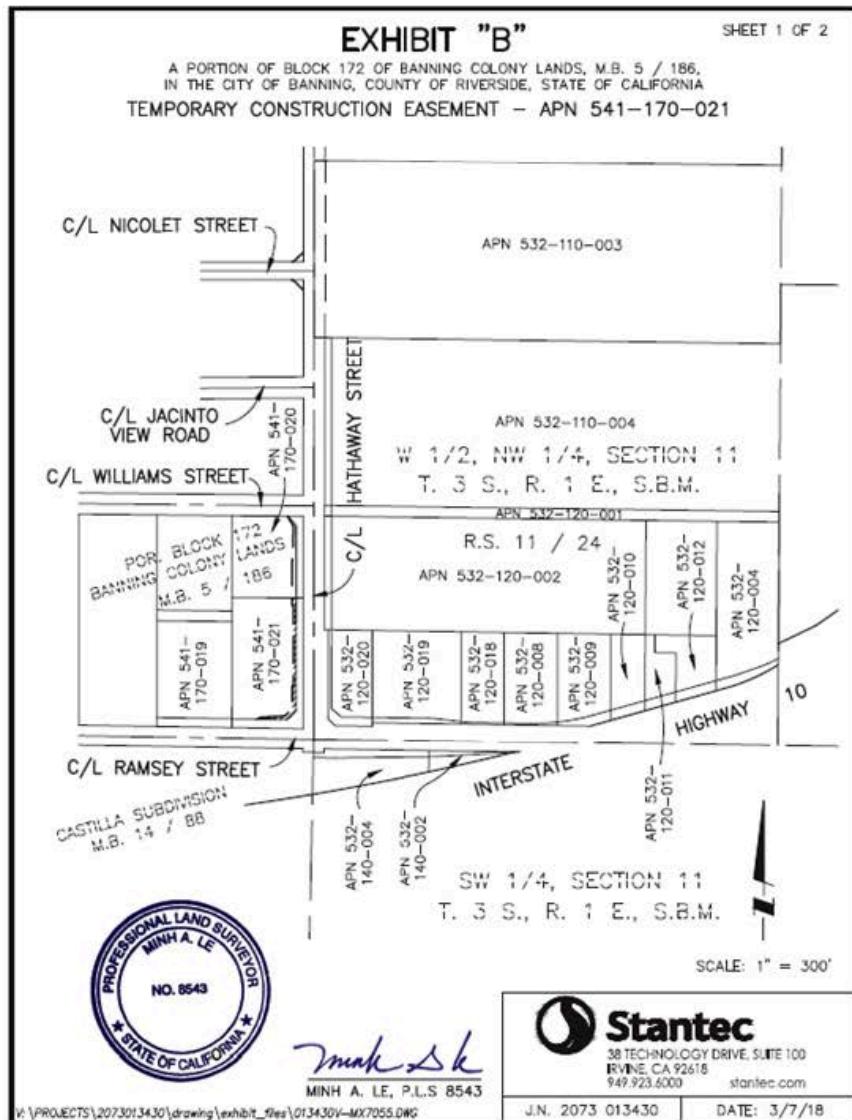
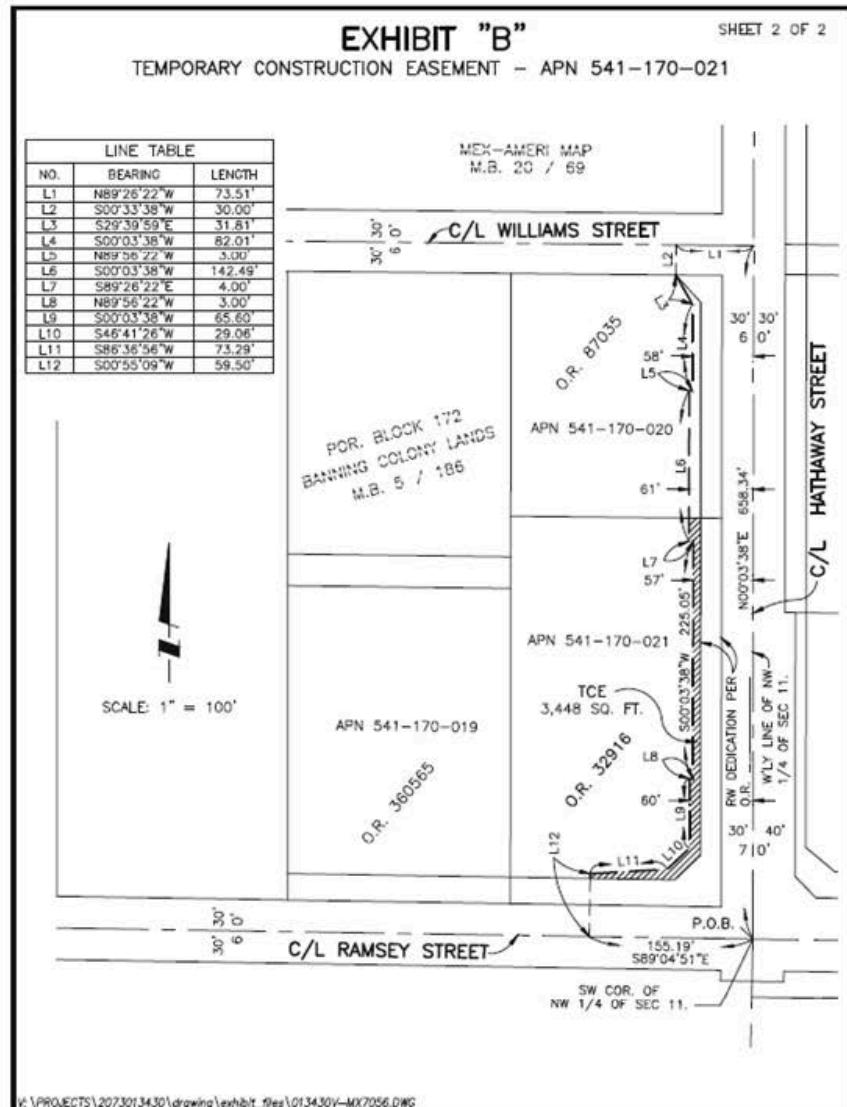


Exhibit "B-2"



ATTACHMENT 4



1

The image is a screenshot of a presentation slide. At the top left, the word "Overview" is written in white. Below it, the title "Landscape Maintenance District No. 1 (LMD No. 1)" is displayed in a large, white, sans-serif font. The slide contains three bulleted points, each preceded by a white circle with a black checkmark:

- Provides Funding for Admin., Landscaping, 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)

2

1

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 ongoing maintenance and large capital improvement projects.

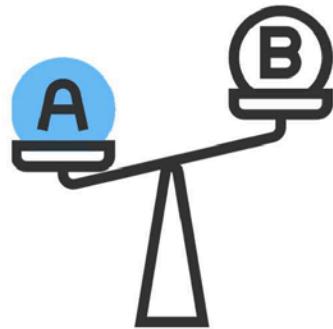
3

ZONES

4

2

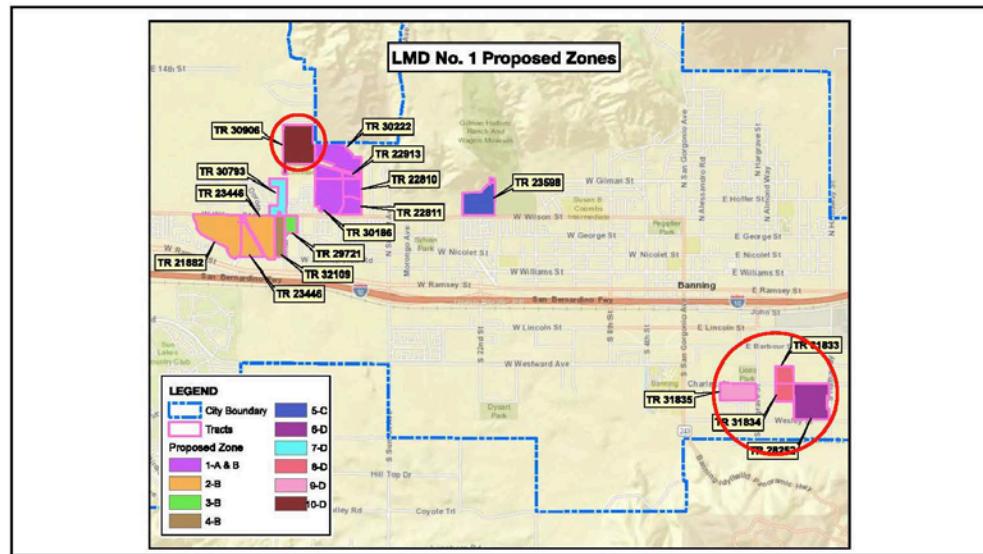
Current Zone Configuration vs. Special Benefit



4 Current Zones:

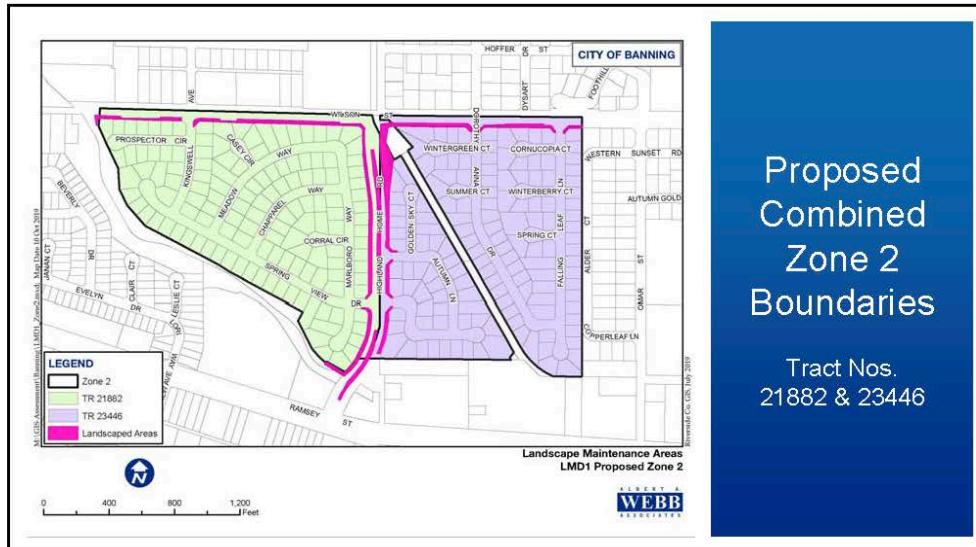
- Tracts within Zones are Not Contiguous
 - Tracts may be Paying for Benefit Not Received
 - Tracts (within same Zone) paying ***higher rates*** than their actual costs
 - Tracts (within same Zone) paying ***lower rates*** than their actual costs

5



6

3



7

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

8

4

FUNDING OPTIONS

9

Options

1. Budget & Rates with Maintenance Program Only (\$0.29/SQFT)
2. Budget and Rates with Maintenance Program escalated by 50% (\$0.44/SQFT)
3. Budget & Rates with Maintenance Program & CIP program over 30 Years



10

5

Summary of Options							
Proposed Zone	Original Zone	Tract No.	# of Assessment Units	FY 2019-20 Assessment Rates	Prop 218 Option 1 Maintenance Program FY 2020-21 Assessment Rate per Unit	Prop 218 Option 2 Escalated Maintenance Program FY 2020-21 Assessment Rate per Unit	Prop 218 Option 3 Redesign CIP Program FY 2020-21 Assessment Rate per Unit
1	A	22810	43	\$108.90	\$207.39	\$230.07	\$546.33
1	A	22811	39	\$108.90	\$207.39	\$230.07	\$546.33
1	A	22913	9	\$108.90	\$207.39	\$230.07	\$546.33
1	B	30186	107	\$113.31	\$207.39	\$230.07	\$546.33
1	B	30222	121	\$113.31	\$207.39	\$230.07	\$546.33
2	B	21882	134	\$113.31	\$97.85	\$107.69	\$244.90
2	B	23446	128	\$113.31	\$97.85	\$107.69	\$244.90
3	B	29721	38	\$113.31	\$174.71	\$183.60	\$307.58
4	B	32109	21	\$113.31	\$308.89	\$333.77	\$680.61
5	C	23598	97	\$98.91	\$159.01	\$168.30	\$297.80
6	D	28252	70	\$210.38	\$171.98	\$177.79	\$231.62
7	D	30793	43	\$210.38	\$158.09	\$167.79	\$303.12
8	D	31833	17	\$210.38	\$375.93	\$392.07	\$617.05
8	D	31834	18	\$210.38	\$375.93	\$392.07	\$617.09
9	D	31835	33	\$210.38	\$314.54	\$359.77	\$990.40
10	D	30906	87	\$210.38	\$221.55	\$235.63	\$431.81
Total			1015				

11

Property Owner Outreach	
<ul style="list-style-type: none"> ✓ Letters to property owners ✓ 4 property owner meetings held at the Senior Center ✓ Social media ✓ City Website <hr/> <ul style="list-style-type: none"> ✓ Notifications will be posted near community mailboxes ✓ Online surveys/Survey cards 	

12

Next Steps

- ✓ Continue with outreach
- ✓ Report outreach and survey results to City Council
- ✓ Staff will recommend options to include on the Prop 218 ballot (March, 2020)
 - ✓ One option per zone will be voted on by property owners in that zone.
- ✓ Prop 218 ballots mailed out (May, 2020)
- ✓ Public Hearing (June, 2020)
 - ✓ Count ballots
 - ✓ Approve Engineer's Report



13

Resolution 2020-11

- Staff recommends adoption
 - Approval of the *Financial Analysis, Redevelopment and Proposition 218 Report*
 - *With the approval, the rezoning will occur whether any of the funding options are approved by the property owners or not.*

14

7

THANK YOU.
QUESTIONS?



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CITY OF BANNING CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Douglas Schulze, City Manager**
Laurie Sampson, Executive Assistant

MEETING DATE: **February 11, 2020**

SUBJECT: **Adopt Resolution No. 2020-2, Approving the Agreement for Purchase and Sale and Escrow Instructions Between the City of Banning and Teh Shan Liang in Connection with Ramsey-Hathaway Street Improvement Project, Located at 1933 E. Ramsey Street, Portions of APN 532-120-012**

RECOMMENDED ACTION:

That the City Council Adopt Resolution No. 2020-2:

1. Approving the "Agreement for Purchase and Sale and Escrow Instructions Between City of Banning and Teh Shan Liang in Connection with Ramsey-Hathaway Street Improvement Project located at 1933 E. Ramsey Street, for portions of APN 532-120-012";
2. Authorize the City Manager to execute the Agreement for Purchase and Sale and Escrow Instructions for the acquisition of certain property interest from APN 532-120-012, and approve and execute any necessary documents, including the Temporary Construction Easement Agreement. Certificate of Acceptance for portions of APN 532-120-012, and to take all necessary actions to complete the real property transaction contemplated in the Purchase and Sale Agreement, including, without limitation, all escrow instructions and escrow related documents;
3. Authorize Administrative Services Director to make necessary budget adjustments and appropriations for FY 2020.

BACKGROUND:

Under the City's Capital Improvement Program, the Ramsey and Hathaway Street Widening project ("Project") has concluded design and engineering work. The Project, as planned and designed, will improve circulation in this area of the City and will widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street.

Widening will also occur along Hathaway Street from Ramsey Street approximately 1,400 feet north. Further, the Project will construct a new 12-inch ductile iron water line along Ramsey Street. The construction of the Project will require the acquisition of right of way in order to be completed.

City staff has held several meetings to discuss the Project with property owners in the area. Prior to acquisition, the City determined fair market value for the necessary right of way required. Values established through the appraisal process, by a state licensed real estate appraiser provide a justification and amount for establishing compensation in exchange for acquisition of the necessary right-of-way and use of a temporary construction easement for a term of nine months.

The Project requires certain property interests from ten larger parcels. Teh Shan Liang has agreed to terms based upon the appraised value which includes acquisition in fee of approximately 3,233 square feet portion from the real property located at 1933 E. Ramsey Street. The purchase also includes approximately 1,321 square feet for a Temporary Construction Easement ("TCE"). The purchase price is \$13,400. Staff is also requesting an amount not to exceed \$5,000 for associated escrow and title services, totaling \$18,400.

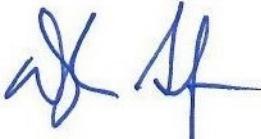
FISCAL IMPACT:

The purchase price is \$13,400 plus escrow and title charges not to exceed \$5,000 for a total expenditure of up to \$18,400. Funds to be sourced from Account 840-9500-490.93-30.

ATTACHMENTS:

1. Resolution No. 2020-2 <https://banningca.gov/DocumentCenter/View/6943/Resolution-2020-2-Liang-PSA>
2. Purchase and Sale and Escrow Instructions Agreement – Partially Executed <https://banningca.gov/DocumentCenter/View/6944/Liang-Partially-Executed-Agreement>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Thomas Miller, Electric Utility Director
Brandon Robinson, Electrical Engineering Supervisor

MEETING DATE: February 11, 2020

SUBJECT: Adopt Resolution No. 2020-15, Approving the First Amendment to Professional Services Agreement C00622 with Webb & Associates

RECOMMENDED ACTION:

The City Council adopt Resolution:

1. Approving the First Amendment to Professional Service Agreement C00622 with Webb & Associates to include a required Burrowing Owl Survey task in an amount of \$5,100. The total contract amount will increase to \$51,700 for the preparation of CEQA documentation and environmental services for the Ivy Substation.
2. Authorizing the City Manager to execute the First Amendment to the Professional Services Agreement with Webb & Associates for Fiscal Year 2019/2020 for the preparation of CEQA documentation and environmental services for the Ivy Substation.

PROJECT DESCRIPTION:

The City of Banning Electric Utility (Utility) recently purchased property located at 1581 Charles Street in the City of Banning. The property will facilitate the construction of a new step-down distribution substation which will be owned and operated by the Utility, which will officially be known as Ivy Substation. The Ivy Substation will consist of a 34.5 kilovolt (kV) to 12.47 kV step-down distribution transformation station. The station will support a 34.5kV overhead entrance with four (4) underground 12.47 kV "get-a-ways" rising to an interconnection with the existing overhead lines, located adjacent to the westerly Right-of-Way (R/W) of Hathaway St. Once the Ivy Substation is built, it will absorb most of the electric loads from Airport Substation.

BACKGROUND:

In order to construct the Ivy Substation, compliance with the California Environmental Quality Act (CEQA) is required. City staff has reviewed the proposed facility, in relationship with the surrounding environmental and determined that the preparation of an Initial Study is necessary. Furthermore, the City anticipates that a Mitigated Negative Declaration (MND) is likely the appropriate document to provide the necessary environmental clearances associated with the planning, design, construction, and operation of the proposed Ivy Substation. This environmental documentation will not require compliance with the National Environmental Policy Act (NEPA) or require a unique permit issued by any state or federal agency, as the Utility is part of the Southern California Public Power Authority (SCPPA); as such, State Clearinghouse circulation is also not necessary.

On July 10, 2019, Webb & Associates provided a proposal for the CEQA environmental determination associated with the Ivy Substation development for an amount of \$46,600. A requirement of the environmental clearance is to prepare a Habitat Assessment and Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Consistency Analysis Report needed for the project. The original scope of work assumes that no Burrowing Owl suitable habitat would be present within the project area and/or immediately vicinity. As a result of the MSHCP Consistency Analysis Report, Burrowing Owl suitable habitat was determined to be present on site and north of the project. As such, per MSHCP guidelines, the Project requires focused Burrowing Owl surveys in order to finalize the biological resource section needed for the IS/MND and will be included in the Burrowing Owl Survey Report.

FISCAL IMPACT:

Funding for Environmental Documentation Services, in the amount not-to-exceed \$51,700, will be available in Account No. 674-7000-473-96.33. The consultant will invoice the City on a monthly basis, with an itemized list of work performed, along with delivery of the specific work products.

ALTERNATIVES:

1. Adopt the Resolution.
2. Reject the amendment, separate the additional task and request proposals through the full on-call environmental consultant list.

ATTACHMENTS:

1. Resolution 2020-15
<https://banningca.gov/DocumentCenter/View/6950/Attachment-1---Resolution-2020-15---Amending-Webb-PSA-C00622>

2. Professional Services Agreement C00622
https://banningca.gov/DocumentCenter/View/6951/Attachment-2---C00622_ALBERT_A_WEBB_Signed
3. Submitted Proposal for Focused Burrowing Owl Surveys
<https://banningca.gov/DocumentCenter/View/6952/Attachment-3---Burrowing-Owl-Focused-Survey-Proposal>

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 Rush, Community Development Director**

MEETING DATE: **February 11, 2020**

SUBJECT: **Adoption of Resolution 2020-19 to update the City's participation in the TUMF program and adoption of a revised and updated TUMF Schedule.**

RECOMMENDED ACTION:

That the City Council:

Adopt Resolution 2020-19, amending the applicable Transportation Uniform Mitigation Fee (TUMF) applicable to all developments in the City of Banning.

BACKGROUND:

The City / County is a Member Jurisdiction of the Western Riverside Council of Governments ("WRCOG"), a joint powers agency comprised of the County of Riverside and eighteen (18) cities located in Western Riverside County. Acting in concert, in 2002-2003, WRCOG member jurisdictions developed a plan whereby the shortfall in funds needed to enlarge the capacity of the Regional System of Highways and Arterials due to new development in Western Riverside County could be made up in part by a Transportation Uniform Mitigation Fee ("TUMF") on future residential, commercial, and industrial development. As a member jurisdiction of WRCOG and as a TUMF participating jurisdiction, the City / County participated in the preparation of a certain "Western Riverside County Transportation Uniform Fee Nexus Study," ("2002 Nexus Study") later adopted by the WRCOG Executive Committee. Based on the 2002 Nexus Study, the City / County adopted and implemented an ordinance authorizing the City's participation in a TUMF Program.

Pursuant to the Mitigation Fee Act (Gov. Code §§ 66000 *et seq.*), WRCOG has prepared a new Nexus Study ("2016 Nexus Study") to update the fees. On July 10, 2017, the WRCOG Executive Committee reviewed the 2016 Nexus Study and recommended TUMF participating jurisdictions update their fees by amending their applicable TUMF Ordinances to reflect changes in the TUMF Network and the cost of construction.

DISCUSSION:

The proposed Ordinance provides the legal basis for a revised TUMF schedule. The actual TUMF schedule will be established through the Resolution.

In accordance with the Mitigation Fee Act, the proposed Ordinance and 2016 Nexus Study: (i) identify the purpose of the revised fees; (ii) identify the use to which the revised fees is to be put, including identification of any facilities to be financed; (iii) determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed; (iv) determine how there is a reasonable relationship between the need for the public facilities and the type of development project upon which the fees are imposed; and (v) determine how there is a reasonable relationship between the amount of the fees and the cost of the public facilities or portion or the public facility attributable to the development on which the fees are imposed.

The resolution will establish the Fee Schedule for TUMF as follows:

A. There is hereby adopted the following TUMF schedule:

- (1) \$9,146.00 per single family residential unit
- (2) \$6,134.00 per multi-family residential unit
- (3) \$1.77 per square foot of an industrial project
- (4) \$7.50 per square foot of a retail commercial project
- (5) \$4.56 per square foot of a service commercial project
- (6) \$2.19 per square foot of a service Class A and B Office

B. For single-family residential, multi-family residential and retail non-residential projects, the fees set shall be phased in as follows:

From July 1, 2020 to June 30, 2020, the fee schedule shall be as follows:

- (1) \$9,478.00 per single family residential unit
- (2) \$6,389.00 per multi-family residential unit
- (3) \$1.81 per square foot of an industrial project
- (4) \$7.50 per square foot of a retail commercial project
- (5) \$4.75 per square foot of a service commercial project
- (6) \$2.38 per square foot of a service Class A and B Office

From January 1, 2021 to June 30, 2021, the fee schedule shall be as follows:

- (1) \$9,810.00 per single family residential unit
- (2) \$6,389.00 per multi-family residential unit
- (3) \$1.781 per square foot of an industrial project
- (4) \$7.50 per square foot of a retail commercial project
- (5) \$4.75 per square foot of a service commercial project
- (6) \$2.38 per square foot of a service Class A and B Office

FISCAL IMPACT:

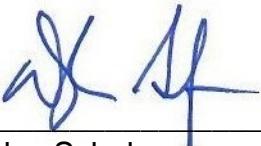
TUMF is primarily applicable to the issuance of building permits for new residential, commercial, and industrial construction. In some cases, significant rehabilitation or re-use projects are applicable. TUMF is a development mitigation fee and is the financially responsibility of the developer, or their successors, for remittance to WRCOG prior to the occupancy of any new building or structure.

ATTACHMENTS:

1. Resolution 2020-19

https://banningca.gov/DocumentCenter/View/6945/Resolution-2020-19_TUMF-Fee-Schedule-Update

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: Jason Smith, Electric Operations Manager
Tom Miller, Electric Utility Director

MEETING DATE: February 11, 2020

SUBJECT: Adopt Resolution 2020-20 Authorizing the Purchase of One Heavy Duty Three-Reel Trailer with Tensioners and Rewinds.

RECOMMENDED ACTION:

Adopt Resolution 2020-20 which includes:

1. Authorizing the purchase of one heavy duty three-reel trailer with tensioners and rewinds at \$39,850 (Thirty-nine thousand, eight hundred and fifty dollars) plus tax and license.

GOAL STATEMENT:

To effectively replace aging equipment and modernize current Electric Utility fleet in order to maintain pace with current developments and workload.

The Electric Utility staff will operate and maintain a fleet of aerial, digging, and material handling trucks and equipment to include appropriate routine inspections, maintenance, and repair.

BACKGROUND:

Banning Electric Utility is a retail electrical energy distribution provider and load serving entity serving 13,000 end-use customers with 15 miles of overhead and underground sub-transmission, six (6) distribution substations, and 129 miles of overhead and underground distribution lines and a host of special equipment and appurtenances requiring a full complement of aerial, digging, and material handling devices.

JUSTIFICATION:

In reference to Resolution 2019-16, the utility has acknowledged the need for a more efficient asset management program that maximizes the optimal use of all equipment and materials. The Electric Utility Heavy Duty Trucks and Equipment Replacement Program meets this need and will allow us to achieve these goals while facilitating long term cost savings procedures and practices. The purchase of this heavy duty trailer is within the parameters of the established program.

FISCAL IMPACT:

\$475,296 is available in account 673-7000-473.90-52 for the purpose of replacing and upgrading various electric utility vehicles and equipment.

The Electric Utility recognizes appropriate FERC depreciation practices, including the funding of an equipment replacement program for the purpose of timely replacement of the departments' aerial, digging, and material handling trucks and equipment.

OPTIONS:

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

ATTACHMENTS:

1. Resolution 2020-20
<https://banningca.gov/DocumentCenter/View/6953/Attachment-1---Resolution-2020-20>
2. Quote for trailer
<https://banningca.gov/DocumentCenter/View/6954/Attachment-2---Rice-Quote>
3. Photos of similar model trailer.
<https://banningca.gov/DocumentCenter/View/6955/Attachment-3---Picturedocx>

Approved by:



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: February 11, 2020

SUBJECT: Adopt Resolution 2020-21 Accepting Lots A, D, E, F, and G as offered on Parcel Map 25541 for Street, Public Utilities and Landscape Purposes

RECOMMENDED ACTION:

City Council adopt Resolution 2020-21 accepting Lots A, D, E, F and G as offered on Parcel Map 25541 for Street, Public Utilities and Landscape Purposes.

BACKGROUND:

On August 28, 1990 the City Council approved Parcel Map 25541, which subdivided 294.73 acres into four (4) parcels and ten (10) lettered lots. Parcel Map 25541 is bordered on the north and south by Interstate 10 and the prolongation of Westward Avenue to the south, respectively; and bordered on the west and east by the prolongation of Highland Home Road and Sunset Avenue, respectively.

At the time of City Council's approval of Parcel Map 25541, the owner offered for dedication to the City of Banning (City) Lots A through E for public use specifically for street and public utility purpose. The owner also offered for dedication to the City Lot F and Lot G for landscape purposes and Lots I, J and H for water wells and electrical facility purposes.

City Council elected to not accept the offers of dedication but reserved the right to accept the dedications on behalf of the public at a later date.

JUSTIFICATION:

The acceptance of Lots A, D, E, F and G will provide the necessary right-of-way for the extension of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue. The Community Development Department is currently processing General Plan Amendment

that will revise the Circulation Element to reflect an alignment for Sun Lakes Boulevard that will be consistent with right-of-way as offered by Parcel Map 25541.

FISCAL IMPACT:

There is no fiscal impact associated with Resolution 2020-21.

ALTERNATIVE:

City Council has the alternative available to them to not approve Resolution 2020-21 which would result in not acquiring the necessary right-of-way for the extension of Sun Lakes Boulevard.

ATTACHMENTS:

1. Resolution 2020-21
<https://banningca.gov/DocumentCenter/View/6946/Attachment-1-Resolution-2020-21>
2. Aerial of Parcel Map 25541
<https://banningca.gov/DocumentCenter/View/6947/Attachment-2-Aerial-PM-25541>
3. Parcel Map 25541
<https://banningca.gov/DocumentCenter/View/6948/Attachment-3-PM-25541>
4. Certificate of Acceptance
<https://banningca.gov/DocumentCenter/View/6949/Attachment-4-Certificate-of-Acceptance>

Approved by:

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: February 11, 2020

SUBJECT: Adopt Resolution 2020-22, Approving a Memorandum of Agreement to Form the Coordinated San Timoteo Groundwater Sustainability Agency

RECOMMENDED ACTION:

Adopt Resolution 2020-22, approving a Memorandum of Agreement to form a coordinated Groundwater Sustainability Agency for the unadjudicated portion of the San Timoteo Subbasin and to create multiple Groundwater Sustainability Plans.

BACKGROUND:

On September 16, 2014, Governor Brown signed a package of three bills (SB 1168, SB 1319, and AB 1739) which established long-term groundwater management in California. The legislation, known as the Sustainable Groundwater Management Act (SGMA), provides a framework for improved management of groundwater by local authorities.

SGMA requires the formation of Groundwater Sustainability Agencies (GSA) for providing governance over each basin in the State. Groundwater basins with the greatest need are categorized as either "High" or "Medium"; the remaining basins are assigned either a "Low" or "Very Low" priority. GSAs with High or Medium priority basins must develop Groundwater Management Plans (GSP) and implement strategies to sustainably manage groundwater resources.

In 2015, the California Department of Water Resources (DWR) initially assigned the San Timoteo Subbasin (Basin) a priority level of Medium. As a result, the primary stakeholders of the Basin adopted a Memorandum of Agreement (MOA), establishing the San Timoteo

Groundwater Sustainability Agency (San Timoteo GSA) in 2017. The San Timoteo GSA member agencies include the City of Banning, Beaumont-Cherry Valley Water District, City of Redlands, Yucaipa Valley Water District and the San Gorgonio Pass Water Agency.

In 2018, a Basin Boundary Modification initiated by Eastern Municipal Water District was approved by DWR, resulting in a revised Basin boundary. The boundary modification eliminated the southerly portion of the Basin in the Badlands area due to the lack of available groundwater. Subsequent to this boundary revision, DWR downgraded the priority of the Basin to Very Low in 2019, thereby eliminating the requirement for GSP development and implementation. Due to both the boundary revision and downgraded priority status, the original management function of the San Timoteo GSA was greatly reduced.

JUSTIFICATION:

In order to address the aforementioned change in functionality, the attached 2019 San Timoteo GSA MOA was prepared as an amendment to the original 2017 MOA for the purpose of updating the coordinated management goals of the member agencies. The member agencies will remain the same with the exception of the San Gorgonio Pass Water Agency, who in 2019 expressed the desire to exclude themselves due to the reassigned Very Low Basin priority.

The 2019 San Timoteo GSA MOA redefines the Basin boundary, establishes "Management Areas" for the purpose of creating individual GSPs for each jurisdiction, requires continued collaboration and coordination among the member agencies to address Basin groundwater sustainability issues, and expresses the desire and intention to work with local stakeholders to carry out the policies and requirements of SGMA.

FISCAL IMPACT:

None at this time.

ALTERNATIVE:

Do not approve Resolution 2020-22 and provide alternative direction.

ATTACHMENTS:

1. Resolution 2020-22
<https://banningca.gov/DocumentCenter/View/6958/Attachment-1-Resolution-2020-22-STGSA-MOA>
2. Memorandum of Agreement
<https://banningca.gov/DocumentCenter/View/6959/Attachment-2-Final-MOA-San-Timoteo-GSA-Coordinated>

Approved by:

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

Douglas Schulze
City Manager

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CITY OF BANNING RESOLUTION

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Matthew Hamner, Chief of Police**
Jeff Horn, Captain

MEETING DATE: **February 11, 2020**

SUBJECT: **Resolution 2020-23, Approving the Acceptance of the 2020 Supplemental Law Enforcement Services Allocation (SLESA) in the amount of \$100,000.**

RECOMMENDATION:

The City Council adopt Resolution 2020-23, a Resolution of the City of Banning, California, authorizing the acceptance of the 2020 SLESA in the amount of \$100,000 and authorize the Banning Police Department to apply the funds toward the purchase of front-line law enforcement related equipment, services, training and supplies.

JUSTIFICATION:

Potential purchases with SLESA funds may include, but are not limited to, vehicle related equipment, technology related equipment and software, evidence collection materials, training, communication related parts, as well as tactical and safety equipment.

All purchases with these funds must follow the purchasing practices for the City of Banning.

BACKGROUND:

On January 22, 2020, the Banning Police Department was notified by the Riverside County Sheriff's Department that its 2020 SLESA funding was \$100,000. The funding must be used to support frontline law enforcement services and cannot be used to supplant already allocated expenditures in the police department's budget.

Legislation requires the City Council to officially accept the Supplemental Law Enforcement Services Funds and approve the police department's anticipated use of the funds.

FISCAL IMPACT:

The budget adjustment in the amount of \$100,000 is necessary to increase estimated revenues and appropriate funds into the 2020 SLESA account. There is no city match required for this grant. The appropriation is requested in the resolution.

OPTIONS:

1. Adopt Resolution 2020-23
2. Reject Resolution 2020-23 and provide direction to staff.

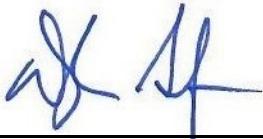
STRATEGIC PLAN OBJECTIVE:

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

ATTACHMENT:

1. Resolution 2020-23
<https://banningca.gov/DocumentCenter/View/6940/Resolution-2020-23>

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: January 14, 2020

SUBJECT: **Ordinance 1556, Ordinance Amending Chapter 17.32 of the Banning Municipal Code by Adopting by Reference the California State Model Water Efficient Landscape Ordinance, Codified at Chapter 2.7 of Title 23 of the California Code of Regulations, and making certain clarifying revisions to the landscape provisions within Title 17 of the Banning Municipal Code and finding the project exempt from CEQA Guidelines Section 15378 and adopting a Categorical Exemption**

RECOMMENDED ACTION:

That the City Council:

1. Adopt the Notice of Exemption (NOE) which determines that Ordinance No. 1556 is not subject to CEQA, pursuant to Section 15060(c)(3) of the California Environmental Quality Act (CEQA) that the Ordinance Amendment is not subject to CEQA because the amendment is not a project as defined by the CEQA Guidelines Section 15378.; and
2. Conduct a public hearing on Ordinance 1556 and at the close of public hearing, adopt Ordinance 1556 amending Chapter 17.32 and incorporate by reference the Model Water Efficient Landscape Ordinance (MWELO).

APPLICANT INFORMATION:

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

Property: All parcels and property (Banning, CA)

BACKGROUND:

At the January 14, 2020 City Council Meeting, the Model Water Efficient Landscape Ordinance or MWELO, was introduced before the Council. In addition, public testimony was solicited and no comments at that time were provided.

As required by California Government Code, the Council directed the City Clerk to publish a public hearing, and second reading, of the model ordinance, which has been scheduled for February 11, 2020.

Planning Commission Recommendation: On December 4, 2019, the Planning Commission of the City of Banning, held a duly noticed public hearing on proposed Zoning Text Amendment (ZTA) 19-97505 and a Categorical Exemption and, following public testimony and the close of the hearing, adopted Planning Commission Resolution 2019-27, by a 5-0-0 vote, recommending that the City Council of the City of Banning, approve ZTA 19-97505.

Since enacting the requirement for the Model Water Efficient Landscape Ordinance (MWELO) in 2006, the California State Legislature has sought to promote the conservation of water through local regulation of landscaping. On April 1, 2015, the Governor issued Executive Order B-29-15, which ordered substantial water reductions and actions to support such reductions across a variety of agencies. In Directive #11 of this Executive Order, the Governor required the update of the MWELO by the Department of Water Resources, and reporting on the implementation of the updated ordinance by local agencies by December 31, 2015.

The proposed ordinance amendment will incorporate the state-mandated MWELO requirements which require increased water efficiency within private and publicly maintained irrigation systems, incentives for graywater usage, improvements for onsite stormwater capture, and limiting the portion of landscapes that can be planted with high water use plants. A discussion of these changes is found in the accompanying flyer from the California Department of Water Resources.

Enforcement of the water efficiency standards will be jointly undertaken by both the City of Banning – Building & Safety and Code Enforcement staff. Since the state's adoption of these standards, the City's plan check process has acted in compliance with these requirements notwithstanding their absence from the Banning Municipal Code. This ordinance amendment will formalize the City's enforcement authority. Furthermore, our current processing requirements largely consist of plan checks of projects that meet the reduced thresholds in the ordinance. Landscaping plan checks are conducted by a Registered Landscape Architect (RLA) provided under contract to the City through our Building & Safety staffing services contract.

ANALYSIS:

The proposed Ordinance Amendment intends to satisfy the state requirement for adoption of an ordinance to implement the updated Model Water Efficient Landscaping Ordinance; which was approved by the California Water Commission in 2015. The requirement for the City to adopt the updated ordinance is found in Governor's Executive Order B-29-15.

ENVIRONMENTAL DETERMINATION:

A. California Environmental Quality Act (CEQA)

City staff has determined that the proposed Zoning Text Amendment exempt from the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15307 and 15308, as an action taken to assure the maintenance, restoration, or

enhancement of a natural resource or the environment where the regulatory process involves procedures for protection of the environment.

B. Multiple Species Habitat Conservation Plan (MSHCP)

The proposed Zoning Text Amendment does not relate to any one physical project and are not subject to the MSHCP. In addition, proposed landscaping improvements occur either on private property where they are considered minor alterations to land or within City Rights-of-Way which are covered facilities under the MSHCP.

PUBLIC COMMUNICATIONS:

This public hearing was advertised in the Record Gazette newspaper January 3, 2020. As of this writing no comments, questions, or inquires have been received.

ATTACHMENTS:

1. Ordinance 1556
<https://banningca.gov/DocumentCenter/View/6935/ATTACHMENT-1---Ordinance-1556-Model-Water-Efficient-Landscape-Ordinance>
2. Planning Commission Staff Report
https://banningca.gov/DocumentCenter/View/6936/ATTACHMENT-2---Planning-Commission-Staff-Report_12-04-19
3. Notice of Exemption (NOE)
https://banningca.gov/DocumentCenter/View/6937/ATTACHMENT-3---NOE-ZTA-19-97505_md
4. Public Hearing Notice
<https://banningca.gov/DocumentCenter/View/6938/ATTACHMENT-4---1556-Public-Hearing-Notice---Landscape-Ordinance-Update>
5. California Code of Regulations, Title 23
<https://banningca.gov/DocumentCenter/View/6939/ATTACHMENT-5---California-Code-of-Regulations-Title-23>
6. Model Water Efficiency Landscape Ordinance: 2015 Revision Flyer
<https://banningca.gov/DocumentCenter/View/6934/ATTACHMENT-6---Model-Water-Efficiency-Landscape-Ordinance-2015-Revision-Flyer>

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: February 11, 2020

SUBJECT: Resolution 2020-24, recommending approval of the Development Agreement and Conditional Use Permit 19-8009. The Project will authorize the construction and operation of an Electronic Message Center, at 583 W. Livingston Street in the Downtown Commercial (DC) Zoning District.

RECOMMENDED ACTION:

That the City Council:

1. Adopt Resolution 2020-24, approving the Conditional Use Permit 19-8009, making a determination that the Project is exempt under the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15303 (New Construction of Small Structures) and Section 15332 (Infill Development Projects) to authorize the construction and operation of an Electronic Message Center, at 583 W. Livingston Street in the Downtown Commercial (DC) General Plan Designation and Zoning District subject to the recommended Conditions of Approval.

2. Waive further reading, and introduce as read by title only, Ordinance 1558, An Ordinance of the City of Banning California,

APPLICANT INFORMATION:

Project Location: 583 W. Livingston Street

APN Information: 540-192-005

Project Applicant: AMG Signs Company, Inc.
359 North Sheridan Street
Corona, CA, 92880

Property Owner: Rami Khouri
18957 Van Buren Blvd. Suite C
Riverside, CA, 92508

BACKGROUND:

At the Planning Commission meeting of May 1, 2019, the Planning Commission considered a proposed Zoning Text Amendment (“Amendment”) that authorized Electronic Message Centers (“digital sign”) within the Downtown Commercial Zoning District. At that meeting, the Planning Commission reviewed, and ultimately recommended approval to the City Council to adopt the Amendment. The zoning modification would authorize a digital sign subject to a Conditional Use Permit (CUP) and a Development Agreement (DA) or Lease Agreement (LA) because of City-owned property within the Downtown Commercial Zoning District. The Planning Commission version of the Amendment set forth a height limitation of 30-feet and a maximum sign face of 200 square-feet.

At the City Council meeting of June 11, 2019 the Council conducted a public hearing and solicited testimony from the public, the business community, and developers of possible digital signs. During testimony provided by Mr. Alex Garcia of AMG Signs, the Council was informed that the minimum height and size – for a digital billboard to be economically viable along freeway frontage – is 80-feet in height and a single-side sign face of 1,200 square feet. The Conditional Use Permit currently before the Commission meets, but does not exceed, these standards.

REQUEST:

The applicant, AMG Signs, is requesting approval of a Development Agreement Conditional Use Permit to construct and operate of an Electronic Message Center, at 583 W. Livingston Street in the Downtown Commercial (DC) Zoning District.

DESCRIPTION:

The project site is a 0.13-acre vacant lot. The project includes the construction of an 80-foot tall, double-faced, digital sign located at the southerly frontage of the property; which is adjacent to Livingston Street. The property is surrounded the I-10 freeway to the south and commercial properties on the north, east, and west property lines; which rarely in excess of two stories.

Land Use Summary Table

	Existing Land Use	Zoning Designation	General Plan Designation
Subject Site	Vacant Lot	Downtown Commercial (DC)	Downtown Commercial (DC)
North	Commercial	Downtown Commercial (DC)	Downtown Commercial (DC)

	Existing Land Use	Zoning Designation	General Plan Designation
South	Caltrans R/W	N/A	N/A
East	Commercial	Downtown Commercial (DC)	Downtown Commercial (DC)
West	Commercial	Downtown Commercial (DC)	Downtown Commercial (DC)

ANALYSIS:

Zoning

The site is located within the Downtown Commercial (DC) Zoning District; wherein Electronic Message Centers are authorized, subject to the approval of a Conditional Use Permit (CUP) and Development Agreement (DA) by both the Planning Commission and City Council.

These zoning modifications were presented to the City Council, during a regularly scheduled public meeting on June 11, 2019 and were subsequently adopted on June 25, 2019, making them effective on July 24, 2019.

The CUP enclosed herein is the first application to be submitted under the proposed zoning requirements.

Development Agreement

The purpose of a Development Agreement according to Banning Municipal Code Section 17.60.010 is: *These provisions establish procedures and requirements for the consideration of Development Agreements between property owners and the City. It is intended that the provisions of this chapter shall be fully consistent, and in full compliance, with the provisions of Article 2.5 of Chapter 4 of Division 1 of Title 7 (commencing with Section 65864) of the California Government Code, and shall be so construed.*

Additionally, the Commission may recommend that the City Council approve or Conditionally Approve a Development Agreement application in whole or in part only if all of the following findings are made:

- A. *The proposed use is consistent with the General Plan;*
- B. *The proposed use is consistent with the any applicable Specific Plans;*
- C. *The proposed use is consistent with the Zoning Ordinance*
- D. *The proposed use will promote the welfare and public interest of the City*

Findings for the project are made and can be found in the attached Resolution.

Conditional Use Permit

The purpose of a Conditional Use Permit according to Banning Municipal Code Section 17.52.010 is: *Conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing the use to established development standards and design guidelines.*

This review shall determine whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use, against any negative or undesirable impacts which it may cause. Limits which the Planning Commission might want to impose, could include restrictions on the hours of business operation; restrictions on the number of clients or patients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted by the business or other use; as well as any other conditions which could help make the use more compatible with the neighborhood in which it is proposed to be located.

Additionally, the Commission may approve and/or modify a Conditional Use Permit application in whole or in part, with or without conditions, only if all of the following findings are made:

- A. *The proposed use is consistent with the General Plan;*
- B. *The proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Ordinance;*
- C. *The proposed use would not impair the integrity and character of the land use district in which it is to be located;*
- D. *The subject site is physically suitable for the type and intensity of land use being proposed;*
- E. *There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;*
- F. *There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics;*
- G. *The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.*

Findings for the project are made and can be found in the attached Resolution.

Parking Requirements

Although there is no parking requirement for Electronic Message Centers, a paved access and at least one paved parking space and turn around shall be required for maintenance vehicles.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

In accordance with §15303 (New Construction of Small Facilities) a Class 3 Categorical Exemption and §15332 (Infill Developments) a Class 32 Categorical Exemption of the California Environmental Quality Act (CEQA), the project is being exempt from further environmental review. A Class 3 Categorical Exemption consists of construction and location of limited numbers of new, small facilities or structures and a Class 32 Categorical Exemption consists of projects characterized as in-fill development meeting conditions described below:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

Findings for the project are made and can be found in the attached Resolution.

MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP):

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

PUBLIC COMMUNICATION:

Proposed Conditional Use Permit 19-8009 and was advertised in the Record Gazette newspaper on January 31, 2020. Notice was also mailed to all property owners within 300-feet of the project site and posted in two public places. As of the date of this report, staff has not received any written comments for or against the project.

ATTACHMENTS:

1. Site Plans
<https://banningca.gov/DocumentCenter/View/6960/Attachment-1---CUP-19-8009-site-plan>
2. Resolution 2020-24
<https://banningca.gov/DocumentCenter/View/6961/Attachment-2-Resolution-2020-24->
3. Ordinance 1558
<https://banningca.gov/DocumentCenter/View/6962/Attachment-3-Ordinance-1558>
4. Development Agreement
<https://banningca.gov/DocumentCenter/View/6963/Attachment-4-AMG-Development-Agreement>
5. Conditions of Approval
<https://banningca.gov/DocumentCenter/View/6964/Attachment-5-Draft-Conditions-of-Approval>
6. Notice of Exemption
<https://banningca.gov/DocumentCenter/View/6965/Attachment-6---Notice-of-Exemption>
7. Proof of Publication
<https://banningca.gov/DocumentCenter/View/6966/Attachment-7---Proof-of-Publication>

Approved by:



Douglas Schulze, City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Kevin G. Ennis, City Attorney**

PREPARED BY: **Kevin G. Ennis, City Attorney**

MEETING DATE: **February 11, 2020**

SUBJECT: **Amendment No. 1 to the City Manager Employment Agreement with Douglas Schulze, and Resolution No. 2020-16 Approving that Amendment**

RECOMMENDED ACTION:

Adopt Resolution No. 2020-16 Approving Amendment No. 1 to the Employment Agreement with Douglas Schulze.

BACKGROUND:

Doug Schulze has served as City Manager since October 8, 2018. His appointment was the culmination of a nationwide recruitment and selection process to fill the permanent position of City Manager.

Pursuant to Banning Municipal Code Section 2.08.020, “[t]he city manager shall be appointed by the city council” On September 10, 2018, the City Council approved an Employment Agreement with Mr. Schulze, thereafter dated October 8, 2018, and adopted Resolution No. 2018-115 appointing Mr. Schulze to the position as City Manager.

A. Current Employment Agreement.

The material terms of the Mr. Schulze’s current City Manager Employment Agreement are as follows:

- Employee receives an annual salary of \$210,048.85 during his term as City Manager.

- The term of the agreement is initially three calendar years commencing on October 8, 2018, subject to termination at any time by the City Council or Mr. Schulze with or without cause. Upon expiration of the initial term, the City may exercise the option to unilaterally extend the agreement for an additional three years, or the term may be extended upon mutual written agreement by both parties.
- If the City terminates the agreement without cause, Mr. Schulze is entitled to six months' salary plus insurance coverage for himself and his dependents, subject to limitation by Government Code section 53260.
- In addition to the standard benefits offered to previous City Managers since November 2015, Mr. Schulze was entitled to an advance of 80 hours of vacation leave upon reporting for work.

B. Amendment No. 1 to the City Manager's Employment Agreement.

Pursuant to Sections 2.2, 2.3 and 5.2 of the City Manager's Employment Agreement, the City Council has conducted and completed an annual performance evaluation of the City Manager and an annual salary review of the City Manager. Upon the completion of those processes, the City Council and Mr. Schulze negotiated two changes to the City Manager's Employment Agreement, reflected in Amendment No. 1 to the Agreement:

- A 2.8% cost of living adjustment to his salary. This is consistent with the 2.8% cost of living increase provided to other management employees in July 2019 but not provided to the City Manager at that time. This will increase the City Manager's annual salary from \$210,048.85 to \$215,930.22. The increase will be effective with the first full pay period that commences after February 11, 2020.
- The option of using a City-owned or City-leased vehicle for City business rather than a \$250 a month car allowance. Under this change, the City Manager can choose one of those options (either a \$250 car allowance or the use of a City-owned or City-leased vehicle) for his use while engaged in City business.

Except as amended in these two respects, all other provisions of his Employment Agreement remain the same.

GOVERNMENT CODE SECTION 54953(c)(3) ANNOUNCEMENT

Consistent with Section 54953(c)(3) of the Government Code and Section 2.5 of the City Council Rules of Procedure, the Mayor, Mayor Pro Tempore, or other presiding officer shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency

executive, as defined in Section 3511.1(d) of the Government Code, during the open regular meeting in which the final action is to be taken and prior to the motion to approve. The City Manager is a local agency executive as defined in Section 3511.1(d) of the Government Code, and the oral report is required prior to approval of the attached Agreement as addressed in the Staff Recommendation section of this report.

- The City Manager will receive a 2.8% increase in annual salary from \$210,048.85 to \$215,930.22 commencing on the first full pay period following approval of Amendment No. 1 to the City Manager Employment Agreement for the remaining term of the Agreement.
- The City Manager will receive either a \$250 per month car allowance in the pursuit of City business or the use of a City-owned or City-leased vehicle in the pursuant of City business.

FISCAL IMPACT:

The City will incur an increase in annual salary and car expense, if the use of a City-owned or City-leased vehicle is chosen by the City Manager, of approximately \$9,482.00 from the salary and expenses provided under the current City Manager Employment Agreement.

STAFF RECOMMENDATION

1. Prior to a motion to adopt the attached Resolution approving Amendment No. 1 to the City Manager Employment Agreement between the City of Banning and Douglas Schulze, the Mayor shall make an oral summary report for compliance with Section 54953(c)(3) of the Government Code as follows: "Staff is recommending the City Council approve Amendment No. 1 to the City Manager Employment Agreement between the City and Douglas Schulze for the position of City Manager. By approval of Amendment No. 1, the City Manager will receive:
 - an annual salary of \$215,930.22 during his term as City Manager; and
 - either a \$250 per month car allowance in the pursuit of City business or the use of a City-owned or City-leased vehicle in the pursuant of City business.
2. Adopt Resolution No. 2020-16 Approving Amendment No. 1 to the City Manager Employment Agreement between the City and Douglas Schulze

ATTACHMENTS:

1. Resolution 2020-16 - Approving Amendment No. 1 to the Employment Agreement with Douglas Schulze
<https://banningca.gov/DocumentCenter/View/6956/Attachment-1-Resolution-2020-16-Final>
2. October 8, 2018 City Manager Employment Agreement
<https://banningca.gov/DocumentCenter/View/6957/Attachment-2-Employment-Agreement---Schulze>

Approved by:

Jennifer Christensen

Jennifer Christensen, Administrative Services Director



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: February 11, 2020

SUBJECT: Resolution 2020-10, Approving the Electric Utility Director Employment Agreement

RECOMMENDED ACTION:

Adopt Resolution No. 2020-10, Approving an Employment Agreement for the Electric Utility Director.

BACKGROUND:

Tom Miller was appointed to the position of Electric Utility Director on February 28, 2018 by Interim City Manager Alex Diaz. The negotiated employment agreement was not executed, but Mr. Miller accepted the position and has served as the Electric Utility Director for just under two years.

Pursuant to Municipal Code section 2.08.090, the city manager is “authorized to execute an employment contract in contemplation of employment by the city subject to the following requirements:

- The contract is for the position of department head.
- The contract is for a classification of employment that is not included within any recognized employee organization.
- The maximum compensation and benefits expressly or impliedly included in the contract are subject to the approval of the city council prior to the contract taking effect. Such approval shall be granted by ordinance or resolution. Approval may be granted as a part of the adoption of the department of city budget if such adoption is by ordinance or resolution.
- The contract shall be subject to the limitations set forth in California Government Code Section 53260 et seq. or any successor sections.”

The proposed agreement between the City and Thomas Miller for Electric Utility Director services is attached hereto as Attachment No. 2. Mr. Miller has signed the agreement with the understanding that its terms must be agreed to by City Council.

The material terms of the Electric Utility Director Employment Agreement are as follows:

- Employee will receive an annual salary of \$173,242.35 at the effective date of the employment agreement.
- The term of the agreement is initially five calendar years commencing on the effective date, subject to termination at any time by the City Manager or Mr. Miller with or without cause. Upon expiration of the initial term, the City may exercise the option to unilaterally extend the agreement for an additional three years, or the term may be extended upon mutual written agreement by both parties.
- If the City terminates the agreement without cause, Mr. Miller is entitled to three months' salary plus insurance coverage for himself and his dependents, subject to limitation by Government Code section 53260.

GOVERNMENT CODE SECTION 54953(c)(3) ANNOUNCEMENT

Consistent with Section 54953(c)(3) of the Government Code and Section 2.5 of the City Council Rules of Procedure, the Mayor, Mayor Pro Tempore, or other presiding officer shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in Section 3511.1(d) of the Government Code, during the open regular meeting in which the final action is to be taken and prior to the motion to approve. The City Manager is a local agency executive as defined in Section 3511.1(d) of the Government Code, and the oral report is required prior to approval of the attached Agreement as addressed in the Staff Recommendation section of this report.

- Employee will receive an annual salary of \$173,242.35 at the effective date of the employment agreement.
- If the City terminates the agreement without cause, Mr. Miller is entitled to three months' salary plus insurance coverage for himself and his dependents, subject to limitation by Government Code section 53260.

FISCAL IMPACT:

The City wages and benefits provided for by this employment agreement are included in the adopted budget.

STAFF RECOMMENDATION

1. Prior to a motion to adopt the attached Resolution approving the Employment Agreement between the City of Banning and Thomas Miller, the Mayor shall

make an oral summary report for compliance with Section 54953(c)(3) of the Government Code as follows: "Staff is recommending the City Council approve an Employment Agreement between the City and Thomas Miller for the position of Electric Utility Director. In addition to the benefits described in the City's adopted Management Benefits Resolution, following is a summary of the Salary, Benefits, and Severance provisions of the Employment Agreement that are unique to this Agreement:

- Employee will receive an annual salary of \$173,242.35 at the effective date of the Employment Agreement.
 - If the City terminates the agreement without cause, Mr. Miller is entitled to three months' salary plus insurance coverage for himself and his dependents, subject to limitation by Government Code section 53260.
2. Adopt Resolution No. 2020-10 Approving an Employment Agreement with Thomas Miller for Electric Utility Director services with an effective date of January 15, 2020.

ATTACHMENTS:

1. Resolution 2020-10, Approving an Employment Agreement with Thomas Miller for Electric Utility Director Services
<https://banningca.gov/DocumentCenter/View/6941/Resolution-2020-10-Approving-EUD-Employmetn-Agreement>
2. Electric Utility Director Employment Agreement
<https://banningca.gov/DocumentCenter/View/6942/Miller-Employment-Agreement-2020-Final-Draft>

Approved by:



Douglas Schulze
City Manager