



AGENDA

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

**May 12, 2020
5:00 p.m.**

Council Chamber
99 E. Ramsey Street
Video/Teleconference

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.

Due to the COVID-19 pandemic emergency, and to protect the health and safety of all participants, this meeting is being held via Video/Teleconference. Pursuant to Governor Newsom's Executive Orders, members of the Banning City Council, staff and public may observe and participate in this meeting electronically or telephonically as outlined below:

To observe and participate in the on-line video portion of the meeting through your personal computer or device enter the following or click on the link:

<https://join.freeconferencecall.com/cityofbanning>

Online meeting ID: cityofbanning

To just listen to the meeting or to offer audio comments only when recognized for that purpose: Dial-in number: (617) 793-8135

If the you receive a busy signal, text CALL ME to the Dial-In number above. For additional assistance connecting to the meeting text "Help" to the Dial-In number above.

Message and data rates may apply

To observe the live meeting through your personal computer but not participate with video or oral comments, you may use your computer or smart phone to enter the following or click on the link: <https://banninglive.viebit.com/?folder=ALL>
or on the Banning Government Channel on Cable Television

You may also Email comments to: sdelafuente@banningca.gov

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
2. Pledge of Allegiance
3. Roll Call: Councilmembers Happe, Pingree, Wallace, Welch, and Mayor Andrade

II. AGENDA APPROVAL

III. PRESENTATION(S)

None

IV. REPORT ON CLOSED SESSION

None

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 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 – 10: Items ____, ____, ____ to be pulled for discussion.

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

1.	Minutes – April 28, 2020, Regular Meeting	1
2.	Minutes – May 5, 2020, Special Meeting (Closed Session)	33
3.	Proclamation – Kids to Parks Day	35
4.	Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of March 2020	37
5.	Receive and File Cash, Investments and Reserve Report for the Month of March 2020	39
6.	Purchase & Sale Agreement - 447 E. Ramsey Street	41
7.	Resolution 2020-60, Authorizing the City of Banning's Participation in the County of Riverside's Urban County Program for Fiscal Years 2021-22, 2022-23, and 2023-24	43
8.	Purchase the Swiftly Platform for the City's Transit Operations for a Period of Five Years in the Amount of \$79,830	47
9.	Resolution 2020-58, Approving Amendment No. 2 to the Professional Services Agreement with Engineering Resources of Southern California to Increase the Total Compensation by \$750,000 and Extend the Term of Agreement through June 30, 2021 for Plan Check, Inspections, and Related Administrative Services	49
10.	Resolution 2020-59, Authorizing CARES Act Emergency Solutions Grant Application	53

VII. PUBLIC HEARING(S):

1.	Ordinance 1562, Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, Inc. for the Operation of an Electronic Message Center; and Ordinance No. 1562, An Ordinance of the City of Banning, California, approving an Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, 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).....	55
	<i>(Staff Report: Adam Rush, Community Development Director)</i>	

Recommendation: Introduce Ordinance 1562, approving the Amended and Restated Development Agreement No. 11 between the City of Banning and AMG Sign Company, Inc.

Mayor asks the City Clerk to read the title of Ordinance 1559

“Ordinance 1562, Approving an Amended and Restated Development Agreement No. 11 between the City of Banning AMG Sign Company, 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 1562
(Requires a majority vote of the Council)

Motion: I move that Ordinance 1562 pass its first reading

VIII. ANNOUNCEMENTS AND REPORTS:

CITY COUNCIL COMMITTEE REPORTS

REPORT BY CITY ATTORNEY

REPORT BY CITY MANAGER

COVID-19 Pandemic Response, Phase II

REPORTS OF OFFICERS

1. Resolution 2020-57, Multilateral Clean Fuel Reward Program **61**
*(Staff Report: Carla Young, Business Support Manager
 Amber Rockwell, Public Benefits Coordinator)*

Recommendation: Adopt Resolution 2020-57.

2. Resolution 2020-56, Establishing Fiscal Year 2020/2021 Service Charges for the Collection, Transportation and Disposal of Solid Waste..... **67**
(Staff Report: Art Vela, Public Works Director)

Recommendation: Adopt Resolution 2020-56.

IX. DISCUSSION ITEMS

1. Reduction of Public Comment Time to Three (3) Minutes **71**
(*Staff Report: Doug Schulze, City Manager*)
Recommendation: Provide direction on the following items: 1) Non-agenda item public comment time limit. 2) Agenda item public comment time limit. 3) Whether speakers should be allowed to grant their time to another speaker. 4) Other changes or amendment so public comment time limits.
2. Cannabis Retailers, Distributors and Cultivators..... **73**
(*Staff Report: Adam Rush, Community Development Director*)
Recommendation: Provide direction on the following items: 1) Number of retailers allowed. 2) Processing new retail applications. 3) Tax on distributors. 4) Modification to Cultivation Tax. 5) Other changes.

X. ITEMS FOR FUTURE AGENDAS

New Items:

Pending Items:

1. Fee Suspension Update
2. Website Redesign
3. CNG Facility Update
4. New Energy Workshop
5. Planning Commissioner Schuler's Continued Service

XI. ADJOURNMENT

Next Meeting – Tuesday, May 26, 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 on the City’s website at www.banningca.gov or via email or regular mail by calling (951) 922-3102 or emailing sdelafuente@banningca.gov in the Office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m. and requesting a copy.



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

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

MINUTES
CITY COUNCIL

04/28/2020
REGULAR MEETING

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Douglas Schulze, City Manager (via teleconference)
Kevin G. Ennis, City Attorney
Sonja De La Fuente, Deputy City Clerk
Jennifer Christensen, Administrative Services Director
Adam Rush, Community Development Director
Tom Miller, Electric Utility Director
Matthew Hamner, Police Chief
Art Vela, Public Works Director/City Engineer
Suzanne Cook, Deputy Finance Director
Laurie Sampson, Executive Assistant

I. CALL TO ORDER

A regular meeting of the Banning City Council was called to order by Mayor Andrade on April 28, 2020, at 5:06 p.m. via Video/Teleconference.

Mayor Pro Tem Wallace offered the invocation.

Councilmember Pingree led the audience in the Pledge of Allegiance.

II. AGENDA APPROVAL

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

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

III. PRESENTATION(S)

None

IV. REPORT ON CLOSED SESSION

None

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

PUBLIC COMMENT(S)

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

Jerry Westholder spoke against the City housing or helping indigents and asked when it was approved by the City Council.

Seeing no further comments, the Mayor closed Public Comments.

CORRESPONDENCE

None

APPOINTMENT(S)

None

VI. CONSENT ITEMS

Items 9, 10 & 11 were pulled for separate consideration.

1. Minutes – April 14, 2020, Regular Meeting
2. Proclamation – Police Week
3. Public Works Capital Improvement Project Tracking List

4. Contracts Approved Under the City Manager's Signature Authority for the Month March 2020
5. Fire Department Statistics for March 2020
6. Police Department Statistics for March 2020
7. Notice of Completion for Project No. 2014-06, "Ramsey Street Pavement Rehabilitation, Hargrave Street to West of Hathaway Street"
8. Resolution 2020-40, Approving a List of Projects to be Funded for Fiscal Year 2020-2021 by SB 1 "The Road Repair and Accountability Act of 2017"

Public Comments

None

A motion was made by Councilmember Happe, seconded by Councilmember Welch to approve Consent Items 1-8. Rollcall vote was taken as follows:

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

Action: Approved Consent Items 1-8.

9. Resolution 2020-44, and 2020-3 SA, City Officers Authorized to Order the Deposit and Withdrawal of Monies in the Local Agency Investment Fund

Mayor Pro Tem Wallace asked staff for clarification on the accounts and authorized signers and Administrative Services Director Jennifer Christensen provided an explanation and clarification on this item.

Public Comments

None

A motion was made by Councilmember Welch, seconded by Mayor Pro Tem Wallace to approve Consent Item 9. Rollcall vote was taken as follows:

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

Action: Approved Consent Item 9.

10. Resolution 2020-54, Approving and Authorizing Submittal of California Emergency Management Agency Form California Office of Emergency Services Form 130 Designating Personnel to Act as the Agent for the City when Seeking Financial Assistance After a Disaster

Mayor Pro Tem Wallace asked staff .

Public Works Director Vela provided explained .

Public Comments

None

A motion was made by Councilmember Happe, seconded by Councilmember Pingree to approve Consent Item 10. Rollcall vote was taken as follows:

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

Action: Approved Consent Item 10.

11. Resolution 2020-55, Authorizing the Police Department to use Golden Star Technology to Outfit Seven New Police Vehicles with a F110 G5 Series Tablet

The Deputy City Clerk indicated that if approved the last sentence of the resolution would be stricken removed (Attachment 1).

Mayor Pro Tem Wallace expressed concern with money being available to cover the cost.

Chief Hamner explained there was a salary savings from some unfilled positions this fiscal year.

Public Comments

Jerry Westholder expressed concern with money being available for officers.

Police Chief Matthew Hamner addressed the concern.

A motion was made by Councilmember Welch, seconded by Councilmember Pingree to approve Consent Item 11 as amended. Rollcall vote was taken as follows:

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

Action: **Approved Consent Item 11 as amended.**

VII. PUBLIC HEARING(S)

None

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Councilmember Pingree reported that he has participated in the food drive and that is going strong.

Councilmember Welch advised the committees he participates in have been dormant during this time and therefore has nothing to report.

Councilmember Happe had nothing to report. He thanked the City Manager and staff for the work he has done with the homeless issue.

Mayor Pro Tem Wallace advised she is impressed with the food giveaway every Friday. She also reported that Kids Cure does giveaways as well and does a good job. The Community Action Partnership Executive Director oversees homeless in the County and they will help those in need.

Mayor Andrade advised that the committees she participates in have also gone dormant during this time. She is participating in the food drive on Fridays with the other Councilmembers and Parks & Recreation Commissioners Diaz and Cabral. She also thanked the Community for participating in the program.

REPORT BY CITY ATTORNEY

City Attorney Kevin Ennis reported that a lot of action has been taken by the Riverside County Health Officer, Governor, and the White House Administration

and the City Attorney's office is keeping up with everything and keeping Council and staff apprised as necessary.

REPORT BY CITY MANAGER

City Manager Doug Schulze reported on the following:

- A coalition letter of all cities in Riverside County to State and Federal representatives was emailed to the City Council for the Mayor's signature. It addresses direct economic relief from the Federal government needed by all cities. The letter will be mailed from the League of California Cities.
- In order to receive Community Development Block Grant funding, a project name was given based on the the street it is on and the fact that it is a homeless village, thus Ramsey Street Village seemed appropriate, but it is not set in stone. This is a joint effort with the City Council, the community, the County, faith-based organizations and not-for-profit organizations. It is funded through Community Development Block Grants and supplemented by the CARE Act passed by Congress. He provided some background on how the project came to fruition and some details on the project.

Each member of the City Council expressed their support of the project.

REPORTS OF OFFICERS

1. Full Cost Allocation Plan

Deputy Finance Director Suzanne Cook provided the staff report and PowerPoint presentation (Attachment 2) for this item.

Public Comment

None.

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Pingree, to receive and file the full Cost Allocation Plan as prepared by MGT Consulting Group, April 2020. Rollcall vote was taken as follows:

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

Action: Received and filed Cost Allocation Plan

The Mayor recessed the meeting at 7:02 p.m. and reconvened at 7:13 p.m.

2. Budget Workshop

Administrative Services Director provided the staff report and PowerPoint presentation (Attachment 3) for this item.

Public Comment

None

There was extensive discussion held among Council and staff. Council provided several suggestions for consideration during the budget process.

A motion was made by Councilmember Welch, seconded by Mayor Andrade, to move forward with direction provided by City Council: Rollcall vote was taken as follows:

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

Action: **Direction was provided.**

IX. DISCUSSION ITEM

None

CITY COUNCIL – Next Meeting, May 12, 2020, 5:00 p.m.

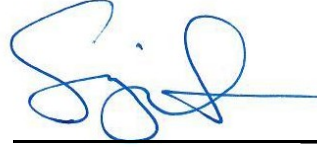
X. ITEMS FOR FUTURE AGENDAS

Councilmember Happe requested Council consider reducing Public Comment time to three minutes.

XI. ADJOURNMENT

By consensus, the meeting was adjourned at 8:57 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=DvVn4WoRZXsJ>. Any related
documents maybe viewed here:
<http://banningca.gov/ArchiveCenter/ViewFile/Item/2284> 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

RESOLUTION 2020-55

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA AUTHORIZING THE POLICE DEPARTMENT TO UTILIZE GOLDEN STAR TECHNOLOGY FOR THE PURCHASE OF SEVEN (7) F110 G5 TABLETS AND ACCESSORIES NOT TO EXCEED THE AMOUNT OF \$28,261.00

WHEREAS, the City of Banning Police Department is responsible for the security and safety of the Citizens of the City; and,

WHEREAS, emergency equipment in police vehicles is necessary for their deployment in the field; and,

WHEREAS, purchases in excess of \$25,000 require City Council approval.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning hereby authorizes the Banning Police Department to utilize Golden Star Technology for the purchase and installation of Tablets and accessories to outfit seven (7)) new police vehicles using Riverside County Contract #SHARC-20454-001-06/20 in an amount not to exceed \$28,261. ~~The Finance Department is authorized to make the necessary budget adjustments related to these funds.~~

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

Daniela Andrade, Mayor
City of Banning

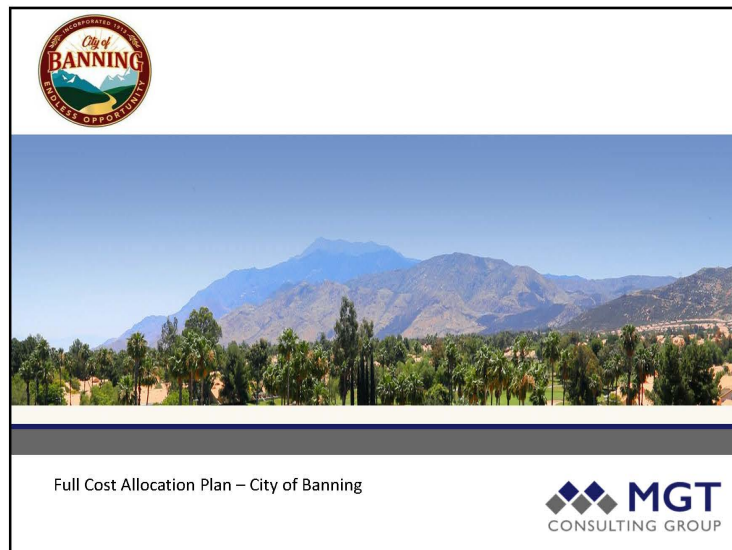
ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning


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

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

ATTACHMENT 2



1



Cost Allocation Presentation Outline

- What is cost allocation
- Applications of cost allocation
- Preparing the cost allocation plan
- Reading the Cost Allocation Plan
 - Cost plan example sections – Detailed Schedules

2

1

What is Cost Allocation?

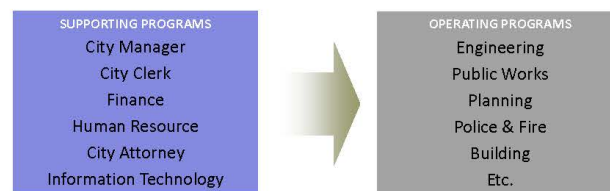
Definitions of Cost

- Direct Costs
 - Project, program, or task specific.
 - Easily identifiable and tracked to a particular cost objective.
 - *Operating programs*, grantee departments
- Indirect Costs
 - Costs which benefit more than one task, activity or program.
 - Costs that cannot be assigned, or directed, to a specific task, activity or program *without making an effort disproportionate to the results achieved.*
 - Administrative/Overhead/*Support programs*

3

What is Cost Allocation?

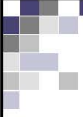
- A method to calculate and assign the cost of *supporting* programs that serve *operating* programs



- Assigning support cost in a manner that is reasonable and logical and is reflective of the use of the service.

4


2



Applications of Cost Allocation

- Recover allowable indirect costs from Federal or State grant programs
- Reimbursement to the general fund for support provided to internal service and enterprise funds
- User fee calculations
- Integrate into SB90 claims
- Useful in budgeting process to understand the true or full cost of providing services
 - Subsidy decisions
 - Resource allocation

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Preparing the Cost Allocation Plan

- Collect financial and operational data
 - Budget & prior year actual expenditures
- Department meetings to discuss methodology and services provided
- Determine department functions
- Identify and request allocation data
- Prepare cost plan model, draft plan and conduct internal review
- City draft review
- Incorporate changes and produce final plans

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3

Reading the Cost Allocation Plan

- Table of Contents
- Summary Schedules
- Detailed Schedules

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Cost Plan: Table of Contents

- Identifies the allocated departments, the costs pools created, and the basis of the allocation.

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001-1400 City Clerk	36
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5 Incoming Costs	50
5 Budget	52
5 Cash Accounting	54
5 Payroll	56
5 Accounts Payable	57

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Cost Plan: Summary Schedule

- Summarizes all allocation results.
 - Receiving departments are in columns. Allocating departments are in rows.

City of Banning
Full Cost Allocation Plan

FY 2019-2020
4/9/2020

Summary Schedule

Department	444 Wilson Median	451 Park Development	470 Capital Improvement	600 Airport Operations	610 Transit Operations	610 5800 Fixed Route	610 5850 Dial-A-Ride	66X Water Operations Fund	67X Electric Operations Fund	68X Wastewater Operations Fund
1 001-1000 City Council	90	90	90	\$885	0	\$9,819	\$573	\$28,723	\$61,894	\$11,522
2 001-1000 City Manager	0	0	0	1,426	0	23,150	1,706	65,903	152,334	16,793
3 001-1300 Human Resources	0	0	0	1,301	0	31,219	1,301	41,625	80,648	7,805
4 001-1400 City Clerk	0	0	0	993	0	8,470	372	28,905	51,079	13,548
5 001-1500 Fiscal Services	110	296	82	4,445	0	25,982	2,321	153,259	304,369	76,297
6 001-1910 Purchasing	0	1,255	0	1,371	0	10,702	5,371	83,107	64,901	44,133
7 001-3200 Building Maintenance	0	0	0	3,471	0	17,290	0	15,373	60,189	11,989
8 001-4500 Central Services	0	0	0	2,024	0	33,102	2,416	79,120	215,644	23,653
9 702 Fleet Maintenance	0	0	0	0	0	286,178	138,226	281,770	188,535	100,715
10 703 Information Systems Services	0	0	0	360	6,485	255	1,441	29,954	68,669	17,403
11 700-9040 Liability Insurance	0	0	0	19,125	0	59,105	11,258	69,900	285,573	34,432
12 700-9300 City Attorney	0	0	0	466	0	0	0	25,464	42,971	5,654
Total Current Allocations	\$110	\$1,551	\$82	\$35,867	\$6,485	\$505,272	\$164,985	\$882,703	\$1,577,406	\$363,945

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Cost Plan: Detailed Schedules

- Allocated Departments – have their own detailed schedule.
- Same basic structure
- Common components are:
 - Narratives
 - Department Costs
 - Incoming Costs
 - Cost Pool Allocations
 - Total Allocations

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City of Banning		FY 2019-2020
Full Cost Allocation Plan		4/9/2020
001-1900 Fiscal Services		
Nature and Extent of Services		
Narrative:		
<p>The Fiscal Services Division is responsible for payroll, accounts payable, accounts receivable, purchasing, grants, financial accounting and reporting, debt administration, business tax certificates, budget preparation and administration, cash management and treasury functions.</p> <p>Fiscal Services costs are distributed by the following functions:</p> <p>Budget - Costs have been allocated based on total operating budget per department.</p> <p>Gen'l Accounting - Costs have been allocated based on number of accounting trans per department.</p> <p>Payroll - Costs have been allocated based on number of payroll transactions per department.</p> <p>Accounts Payable - Costs have been allocated based on number of AP transactions per department.</p> <p>Business License - Costs have been allocated based on total operating budget per department, GF Only.</p> <p>AR (Non-Utility Billing) - Costs have been allocated based on number of AR transactions per department.</p> <p>AR Utility Billing - Costs have been allocated based on number of utility billings accounts per Utility Fund (Refuse weighted at 5%).</p> <p>Contracts - Costs have been allocated based on number of contracts per department.</p>		

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City of Banning		FY 2019-2020
Full Cost Allocation Plan		4/9/2020
Dept 5: 001-1900 Fiscal Services		
A. Department Costs		
Description	Amount	General Admin Budget Gen'l Accounting Payroll Accounts Payable Business License AR (Non-Utility Billing) AR Utility Billing
Personnel Costs		
Salaries	\$1 661,676	850 159,244 138,671 99,812 84,500 50,597 44,856 67,164
Salary & Split		12% 24.07% 20.96% 15.88% 12.77% 7.68% 6.39% 10.19%
Benefits	\$ 269,265	350 64,803 56,421 40,618 34,287 20,590 18,354 27,332
Subtotal - Personnel Costs	930,941	1,210 224,047 195,103 140,430 118,886 71,187 63,110 94,496
Services & Supplies Cost		
CONTRACTUAL SERVICES	\$ 57,850	75 13,923 12,124 8,727 7,388 4,424 3,922 5,872
CONTRACT SVC-EMPLOYEE SPC	\$ 1,293	2 388 268 193 163 98 87 130
CONTRACTUAL SVC-UTILITIES	\$ 0	0 0 0 0 0 0 0 0
CONTRACT SVC-REPAIR	\$ 36,800	39 7,220 6,287 4,525 3,831 2,294 2,034 3,545
CONTRACT SVC-PROFESSIONAL	\$ 66,454	86 15,993 13,927 10,024 8,487 5,082 4,505 6,745
MANAGEMENT AND SUPPORT	\$ 2,000	3 481 419 302 255 153 136 203
DEPARTMENTAL SUPPLIES	\$ 0	0 0 0 0 0 0 0 0
NONCAPITALIZED ASSETS	\$ 10,200	13 2,455 2,138 1,539 1,303 780 691 1,035
CONTRA EXPENDITURE	\$ (502,216)	0 0 0 0 0 0 0 0
Subtotal - Services & Supplies	(333,432)	218 40,380 35,163 25,310 21,427 12,830 11,314 17,031
Department Cost Total	597,509	1,428 264,427 230,266 165,740 140,313 84,018 74,485 111,527
Adjustments to Cost		
CONTRA EXPENDITURE	\$ 501,216	0 0 0 0 0 0 0 0
Subtotal - Adjustments	501,216	0 0 0 0 0 0 0 0
Total Costs After Adjustments	1,098,725	1,428 264,427 230,266 165,740 140,313 84,018 74,485 111,527
General Admin Distribution		(1,428) 344 300 216 183 109 97 145
Grand Total	\$1,098,725	\$264,771 \$230,566 \$165,956 \$140,496 \$84,127 \$74,582 \$111,673

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4/28/2020

Cost Plan – Detailed Schedules

Dept 5 001-1900 Fiscal Services

B. Incoming Costs - (Default Spread Salary%)

Department	First Incoming	Second Incoming	Budget	Gen'l Accounting	Payroll	Accounts Payable	Business License	AR (Non-Utility Billing)	AR Utility Billing	Contracts
1 Council Support - Fiscal	5236	5197	5194	591	565	555	533	539	544	519
1 Council Support - Personnel	2,473	2,108	1,104	961	692	586	351	311	466	111
Subtotal - 001-1000 City Council	2,709	2,305	1,208	1,052	757	641	384	340	510	121
2 City Mgr Support-Fiscal	1,057	235	311	271	195	165	99	88	131	31
2 City Mgr Support-Personnel	11,054	2,541	3,276	2,653	2,053	1,738	1,041	923	1,362	329
Subtotal - 001-1200 City Manager	12,111	2,776	3,588	3,124	2,249	1,904	1,140	1,011	1,513	360
3 HR Support	20,172	4,543	5,956	5,186	3,733	3,160	1,892	1,678	2,512	597
Subtotal - 001-1300 Human Resources	20,172	4,543	5,956	5,186	3,733	3,160	1,892	1,678	2,512	597
4 City Clerk Support-Fiscal	229	52	68	59	42	36	22	19	29	7
4 City Clerk Support-Personnel	2,396	501	717	625	450	351	228	202	303	72
Subtotal - 001-1400 City Clerk	2,625	633	785	684	492	417	249	221	331	79
5 Budget	0	1,275	307	268	193	163	98	87	130	31
5 Gen'l Accounting	0	691	167	145	104	88	53	47	70	17
5 Payroll	0	9,179	2,212	1,926	1,386	1,174	703	623	933	222
5 Accounts Payable	0	1,859	448	390	281	238	142	126	189	45
5 Business License	0	2,762	666	580	417	353	211	187	281	67
Subtotal - 001-1900 Fiscal Services	0	15,767	3,799	3,309	2,381	2,016	1,207	1,070	1,603	381
6 Purchasing A	0	2,409	581	506	364	308	184	164	245	58
6 Purchasing B	0	1,589	383	334	240	203	122	108	162	38
Subtotal - 001-1910 Purchasing	0	3,998	964	839	604	511	306	271	406	97
7 City Hall	0	10,611	2,557	2,227	1,603	1,357	812	720	1,078	256
Subtotal - 001-3200 Building Maintenance	0	10,611	2,557	2,227	1,603	1,357	812	720	1,078	256
8 Central Services- Fiscal	0	1,242	299	261	188	159	95	84	126	30
8 Central Services- Personnel	0	12,985	3,129	2,725	1,981	1,660	994	881	1,320	314
Subtotal - 001-4500 Central Services	0	14,227	3,428	2,985	2,169	1,819	1,089	965	1,446	344
10 Info Services Support	0	23,560	5,678	4,945	3,559	3,013	1,804	1,599	2,395	570
10 Phone Support	0	4,152	1,001	871	627	531	318	282	422	100

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Cost Plan – Detailed Schedules

Dept 5 001-1900 Fiscal Services

Budget Allocations

Department	Units	Allocation Percent	First Allocation	Direct Billed	Department Allocation	Second Allocation	Total
(81) 65X Wastewater Operations Fund	3,622,634	4.59%	\$12,335	\$0	\$12,335	\$1,007	\$13,342
(73) 67X Electric Operations Fund	31,461,445	28.12%	107,146	0	107,146	8,745	115,891
(65) 66X Water Operations Fund	9,564,494	11.90%	32,573	0	32,573	2,659	35,232
(18) 001 Police	8,602,592	10.70%	29,297	0	29,297	2,391	31,688
1 001-1000 City Council	107,630	0.13%	367	0	367	0	367
2 001-1200 City Manager	227,899	0.28%	776	0	776	0	776
3 001-1300 Human Resources	181,637	0.22%	591	0	591	0	591
4 001-1400 City Clerk	181,637	0.23%	619	0	619	0	619
5 001-1900 Fiscal Services	374,508	0.47%	1,275	0	1,275	0	1,275
6 001-1910 Purchasing	155,779	0.19%	531	0	531	43	574
7 001-3200 Building Maintenance	203,836	0.25%	695	0	695	57	751
8 001-4500 Central Services	1,132,625	1.41%	3,857	0	3,857	315	4,172
9 702 Fleet Maintenance	1,547,755	1.92%	5,271	0	5,271	430	5,701
10 703 Information Systems Services	525,172	0.65%	1,789	0	1,789	146	1,935
11 700-6000 Liability Insurance	953,326	1.19%	3,247	0	3,247	265	3,512
12 700-5300 City Attorney	750,000	0.93%	2,554	0	2,554	208	2,763
13 001-1800 City Attorney	362,077	0.45%	1,233	0	1,233	101	1,334
15 001-1210 Economic Development	252,520	0.31%	860	0	860	70	930
17 001-2060 TV Government Access	115,988	0.14%	395	0	395	32	427
19 001-3210 Dispatch	1,052,420	1.31%	3,584	0	3,584	293	3,877
20 001-2300 Animal Control	210,503	0.26%	717	0	717	59	775
21 001-2400 Fire	3,649,865	4.41%	12,090	0	12,090	987	13,076
22 001-2500 Building & Related	679,045	0.71%	1,963	0	1,963	160	2,111

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Cost Plan – Detailed Schedules

Dept 5 001-1900 Fiscal Services

Allocation Summary

Department	Budget	Gen'l Accounting	Payroll	Accounts Payable	Business License	AR (Non-Utility Billing)	AR Utility Billing	Contracts	Total
(98) BEA LTM Capital Project Fund	\$0	\$138	\$0	\$0	\$0	\$0	\$0	\$0	\$138
(97) 840 BEA Capital Project Fund	0	760	0	418	0	0	0	0	1,178
(81) 880 Wastewater Operations Fund	13,342	26,847	2,949	4,125	0	0	29,234	0	76,296
(73) 87X Electric Operations Fund	115,891	75,050	28,095	19,426	0	0	65,905	0	304,375
(86) 80X Water Operations Fund	35,232	59,838	16,902	13,044	0	0	28,243	0	153,259
(57) 427 Traffic Control	0	234	0	0	0	0	0	0	234
(49) 30X Agency Funds	0	1,072	0	432	0	0	0	0	1,504
(18) 001 Police	31,688	2,913	29,866	14,214	36,653	55,595	0	0	171,620
1 001-1000 City Council	357	282	4,572	2,744	596	0	0	0	8,561
2 001-1000 City Manager	778	24,293	1,801	2,064	1,807	0	0	0	30,742
3 001-1000 Human Resources	551	532	2,702	3,269	1,179	0	0	0	8,233
4 001-1000 City Clerk	619	558	2,484	652	1,059	0	0	0	5,422
5 001-1900 Fiscal Services	1,275	691	9,179	1,859	2,762	0	0	0	15,767
6 001-1910 Purchasing	574	559	3,953	655	164	0	0	29,877	35,191
7 001-2000 Building Maintenance	751	645	1,966	2,497	2,762	0	0	0	13,622
8 001-4500 Central Services	4,172	79	0	3,024	4,826	0	0	0	12,100
9 702 Fleet Maintenance	5,701	2,909	3,933	21,266	0	0	0	0	33,809
10 703 Information Systems Services	1,905	1,334	1,966	1,533	0	0	0	0	6,766
11 700-5040 Liability Insurance	3,512	609	0	766	0	0	0	0	4,887
12 700-5100 City Attorney	2,763	17	0	4,724	0	0	0	0	7,504
13 001-1900 City Attorney	1,334	6	0	1,543	13,891	0	0	0	16,774
14 001-0001 General	0	343	0	16,514	0	0	0	0	17,062
14 001-1710 Economic Development	676	443	681	607	1,076	0	0	0	4,483

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Questions & Comments

Action Item: Receive & File



MGT
CONSULTING GROUP

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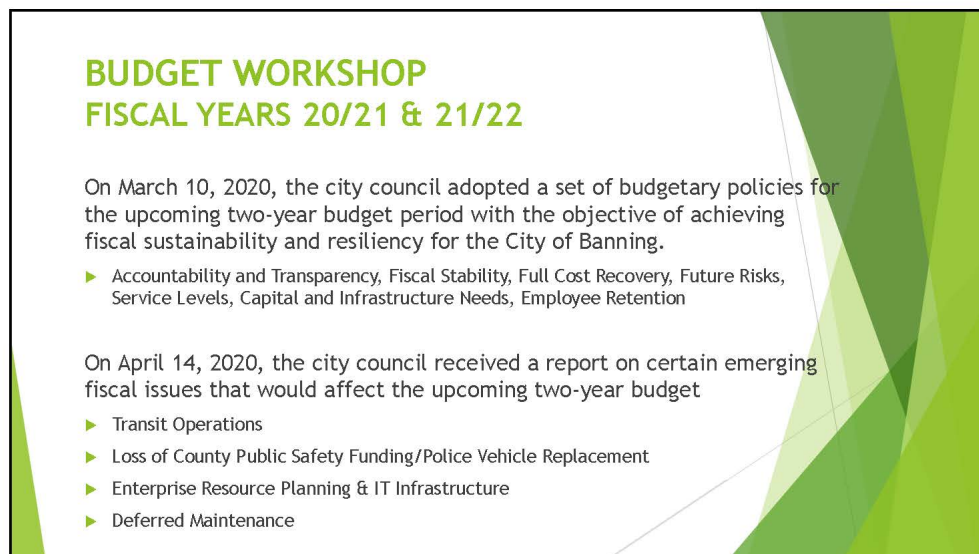


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ATTACHMENT 3



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BUDGET WORKSHOP FISCAL YEARS 20/21 & 21/22

Additional Headwinds

- ▶ Animal Control Contract Increase for FY 2020-21 of 100%
- ▶ Pension Obligations
- ▶ Street Maintenance Funding and Gas Tax Impacts
- ▶ City Infrastructure Needs
 - ▶ Water, Wastewater, Electric, Streets
- ▶ City Facility Needs
 - ▶ City Hall
 - ▶ Emergency Operations Center/Armory
- ▶ Fire Contract and County Administration Costs
- ▶ Homelessness Issues

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BUDGET WORKSHOP FISCAL YEARS 20/21 & 21/22

Coronavirus Pandemic

- ▶ Presidential Guidelines for Social Distancing issued March 16, followed by Governor's Shelter at Home Executive Order on March 19

Causes Market Shocks...

- ▶ Job Loss and Abrupt Halting of Economic Activity Across Business Sectors
- ▶ Immediate Loss of Sales Tax and Transient Occupancy Tax (TOT aka Hotel Tax)
- ▶ Unfunded Mandates for Local Government

Which Leads to Recession

- ▶ U-Shaped Recovery: Sharp downturn with depressed level of activity persisting for some period of time, followed by a pronounced recovery.
- ▶ L-Shaped Recovery: Sharp downturn, slow resolution to the virus, and inadequate federal fiscal stimulus leads to protracted recession with high unemployment rates.

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BUDGET WORKSHOP FISCAL YEARS 20/21 & 21/22

Recovery from Stimulus and Role of Federal Government

- ▶ Given Its Ability to Run Deficits, the Federal Role Is Indispensable
- ▶ Adequacy of the Federal Fiscal Response Will Determine Much About the Pace of the Eventual Economic Recovery
- ▶ Federal Package To-Date Was Historic, in Size and the Speed With Which It Was Enacted

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BUDGET WORKSHOP FISCAL YEARS 20/21 & 21/22

California Faces Challenging Fiscal Outlook

- ▶ Fiscal Outlook Has Gone From Anticipated Surplus to Very Likely Facing a Budget Problem
 - ▶ Budget picture will evolve over the next few months as data become available.
 - ▶ Timing of downturn creates higher than usual level of uncertainty.
- ▶ Fiscal Effects of the Recession Will Likely Span More Than One Budget Year
 - ▶ Reserve balances are very helpful, but insufficient to cover revenue losses.
 - ▶ In the near term, judicious use of budget reserves is warranted.
- ▶ Lacking Solid Basis for Revenue Estimates, Adoption of a Cautious Budget in June Is Justified
- ▶ Legislative Analyst's Office Assessment of Economic Impact Dated April 16, 2020
<https://lao.ca.gov/handouts/FO/2020/Preliminary-Assessment-of-the-Economic-Impact-of-COVID-19-041620.pdf>

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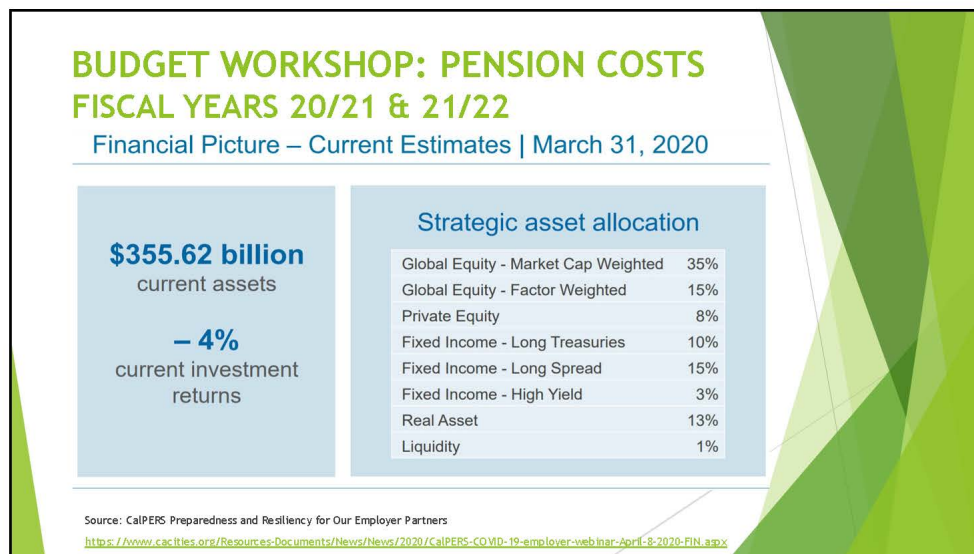


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**BUDGET WORKSHOP: STRATEGIES
REDUCE SPENDING
FISCAL YEARS 20/21 & 21/22**

- Reduce capital asset investments
- Defer some purchases
- Improve capital project management
- Reexamine maintenance and replacement standards
- Refinance debt

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**BUDGET WORKSHOP: STRATEGIES
FIND NEW RESOURCES
FISCAL YEARS 20/21 & 21/22**

- Increase interfund charges where there is a case for it
- Reassess internal service fund and cost allocation formulas
- Redesignate general fund reserves
- Consider monetizing assets
- Implement new or revised fees where appropriate
- Consider short-term borrowing

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**BUDGET WORKSHOP: STRATEGIES
REDUCE MATERIALS & CONTRACTOR COSTS
FISCAL YEARS 20/21 & 21/22**

- Close facilities where social distancing isn't possible
- Eliminate lower-value or no-use programs
- Review contractor costs and renegotiate if possible
- Rethink subsidies, as painful as this might be

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**BUDGET
WORKSHOP
FISCAL
YEARS 20/21
& 21/22**

Operating Budget

- Annual
- Day-to-day activities

Capital Budget

- Multi-year plan
- Fixed assets

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BUDGET WORKSHOP: OPERATIONS FISCAL YEARS 20/21 & 21/22

General Fund (GF)

- ▶ General Operating Revenues estimated at \$16,343,290
- ▶ Deficit Projected at \$2,573,821

Special Revenue Funds (SRF)

- ▶ Street maintenance funding reductions

Internal Service Funds (ISF)

- ▶ Revenues estimated at \$6,262,763
- ▶ Deficit Projected at \$1,439,225
- ▶ Must charge full costs to all departments for Workers Compensation, Liability Insurance, City Attorney charges
- ▶ Need to develop fully loaded rates for ISFs and charge all departments

Enterprise Funds

- ▶ Transit Operations deficit revised estimate at \$144,330
- ▶ Alternative: examine business model and explore regional partnership opportunities

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BUDGET WORKSHOP: CAPITAL FISCAL YEARS 20/21 & 21/22

General Fund

- ▶ City Hall Deferred Maintenance Issues not included in proposed budget
- ▶ Estimated one-time cost of \$1.5-2.0 million over two-year period
- ▶ Alternative: consider focusing on essential safety improvements to reduce immediate budget impact

Internal Service Funds

- ▶ IT Server Replacement
- ▶ No funding in proposed budget for Enterprise Resource Planning (ERP) or cybersecurity needs
- ▶ Alternative for ERP budget needs: scaling project

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BUDGET WORKSHOP: CAPITAL FISCAL YEARS 20/21 & 21/22

Enterprise Funds

Water

- ▶ Water pipeline replacement needs continue to be unmet
- ▶ Water rates are insufficient to support infrastructure replacement needs
- ▶ Savings of \$600,000 for FY 20/21 due to use of municipal utility rates for all city departments

Electric

- ▶ Electric Improvement Fund proposed budget at \$16,358,240 vs. reserves of \$3,398,648
- ▶ All Electric Funds proposed budget at \$18,180,812
- ▶ Risk of depleting nearly all reserves in FY 2020-21

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BUDGET WORKSHOP FY 2020-21 & FY 2021-22

QUESTIONS?

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BUDGET WORKSHOP FISCAL YEARS 20/21 & 20/22

RECOMMENDED ACTIONS

- ▶ Provide direction, if any, regarding items to be addressed or included in the Recommended Budget, schedule for adoption on June 9, 2020; and
- ▶ Provide direction, if any, regarding the special issues or other items.

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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

05/05/2020
SPECIAL MEETING - CLOSED SESSION

COUNCIL MEMBERS PRESENT:

Mayor Andrade
Councilmember Happe
Councilmember Pingree
Mayor Pro Tem Wallace
Councilmember Welch

COUNCIL MEMBERS ABSENT:

None

OTHERS PRESENT:

Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney
Sonja De La Fuente, Deputy City Clerk
Adam Rush, Community Development Director

I. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Andrade on May 5, 2020, at 3:30 P.M. via Video/Teleconference.

II. CLOSED SESSION

The Mayor opened the closed session items for public comments.

Seeing none, the Mayor closed public comments.

The City Attorney listed the items on the closed session Agenda as follows:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Properties: Southeast Corner (APN 532-140-005) and Northeast Corner (APN 532-120-020) of Ramsey Street and Hathaway Street

City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director

Negotiating Parties: Property Owner, Frank Burgess

Under Negotiation: Price and terms for potential acquisition of property

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Properties: 447 E. Ramsey Street (APN: 541-150-004)
City Negotiator: Douglas Schulze, City Manager
Negotiating Parties: Property Owner, Shi Pingdong
Under Negotiation: Price and terms for potential acquisition of property

3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Properties: 553 E. Ramsey Street (APN: 541-150-010)
City Negotiator: Douglas Schulze, City Manager
Negotiating Parties: Property Owner, DBBF Enterprises
Under Negotiation: Price and terms for potential acquisition of property

4. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9 (One Case).

5. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9 (One Case).

6. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957
Title: City Manager

City Council convened to Closed Session at 3:33 p.m. and reconvened to Open Session at 5:38 p.m.

The City Attorney reported that all items on the agenda were discussed. Direction was given regarding items one through three and there is no final or reportable action.

II. ADJOURNMENT

By consensus, the meeting adjourned at 5:39 p.m.

Minutes Prepared by:



Sonja De La Fuente, Deputy City Clerk



CITY OF BANNING
OFFICE OF THE
MAYOR



proclamation

***WHEREAS**, May 16, 2020, is the tenth Kids to Parks Day organized and launched by the National Park Trust held annually on the third Saturday of May; and*

***WHEREAS**, Kids to Parks Day empowers kids and encourages families to get outdoors and visit America's parks, public lands and waters; and*

***WHEREAS**, we should encourage children to lead a more active lifestyle to combat issues of childhood obesity, diabetes, hypertension and hypercholesterolemia; and*

***WHEREAS**, Kids to Parks Day will broaden children's appreciation for nature and outdoors; and*

***NOW THEREFORE**, the City of Banning City Council do hereby proclaim May 16, 2020 as*

KIDS TO PARKS DAY NATIONAL PARK TRUST

Dated this 12th day of May 2020.

ATTEST:

Sonja De La Fuente, Deputy City Clerk

Daniela Andrade, Mayor

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Suzanne Cook, Deputy Finance Director

MEETING DATE: May 12, 2020

SUBJECT: Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of March 2020

RECOMMENDATION:

That City Council review and ratify the warrants for period ending **March 31, 2020**, per California Government Code Section 37208.

WARRANT SUMMARY:

Description	Payment #	Amount	Total Amount
Checks:			
Checks Issued during Month	173130 - 173534	\$ 4,179,825.04	
Voided / Reissue Check		\$ 7,442.38	
Check Total			\$ 4,172,382.66
Wires Total	1026		\$ 859,715.78
ACH payments:	9006681 - 9006711		
Payroll Direct Deposit	3/13/2020	\$ 373,467.36	
Payroll Direct Deposit	3/27/2020	\$ 363,726.54	
Other Payments		\$ 967,806.81	
ACH Total			\$ 1,705,000.71
Payroll Checks:	12045 - 12062		
Payroll - Regular	3/13/2020	\$ 2,259.96	
Payroll - Regular	3/27/2020	\$ 2,196.53	
Payroll Check Total			\$ 4,456.49
Total Warrants Issued for March 2020			\$ 6,741,555.64

ATTACHMENTS:

1. Fund List
<https://banningca.gov/DocumentCenter/View/7321/Attachment-1---Fund-List>
2. Warrant Report March 2020
<https://banningca.gov/DocumentCenter/View/7322/Attachment-2---March-2020-Warrant-Report>
3. Warrant Report Detail March 2020
<https://banningca.gov/DocumentCenter/View/7323/Attachment-3---March-2020-Warrant-Report-Detail>
4. Voided Check Log, Payroll Log & Registers – March 2020
<https://banningca.gov/DocumentCenter/View/7324/Attachment-4---Voided-Check-Log-Payroll-Log-and-Registers>

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

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Suzanne Cook, Deputy Finance Director

MEETING DATE: May 12, 2020

SUBJECT: Receive and File Cash, Investments and Reserve Report for the Month of March 2020

RECOMMENDATION:

That City Council receive and file Cash, Investment and Reserve Report for **March 31, 2020** in accordance with California Government Code 53646.

CASH AND INVESTMENT SUMMARY:

Description		Prior Month	Current Month
Funds Under Control of the City			
Cash			
	Cash on Hand \$	4,155.00 \$	4,155.00
	Checking and Savings Accounts \$	12,548,861.88 \$	11,835,869.78
Investments			
	LAIF \$	42,152,611.15 \$	42,152,611.15
	Brokerage \$	27,294,426.23 \$	27,327,387.60
Total Funds Under Control of the City		\$ 82,000,054.26	\$ 81,320,023.53
Funds Under Control of Fiscal Agents			
US Bank			
	Restricted Bond Project Accounts \$	14,790,781.91 \$	14,797,847.81
	Restricted Bond Accounts \$	4,820,370.24 \$	4,820,389.84
Union Bank & SCPPA			
	Restricted Funds \$	4,421,685.61 \$	4,443,428.04
Total Funds Under Control of Fiscal Agents		\$ 24,032,837.76	\$ 24,061,665.69
Total Funds		\$ 106,032,892.02	\$ 105,381,689.22

RESTRICTED, ASSIGNED, COMMITTED AND RESERVED SUMMARY:

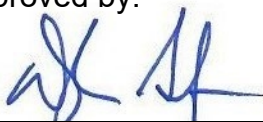
Description	Prior Month	Current Month
Total Funds	\$ 106,032,892.02	\$ 105,381,689.22
Restricted Funds	42,735,620.16	\$ 42,244,691.41
Assigned Funds - Specific Purpose	8,969,200.65	\$ 8,969,200.65
Committed Funds - Specific Purpose	3,242,731.75	\$ 3,242,731.75
Fund Balance Reserves	15,455,882.97	\$ 15,455,882.97
Total Restricted, Assigned, Committed and Reserves	\$ 70,403,435.53	\$ 69,912,506.78
Operating Cash - Unrestricted Reserves	\$ 35,629,456.49	\$ 35,469,182.44
Less Accounts held in Investments	\$ 27,294,426.23	\$ 27,327,387.60
Liquid Cash	\$ 8,335,030.26	\$ 8,141,794.84

ATTACHMENTS:

1. Cash, Investment and Reserve Report March 2020
<https://banningca.gov/DocumentCenter/View/7329/Attachment-1---Cash-Investment-and-Reserves-Report>
2. Investment Report March 2020
<https://banningca.gov/DocumentCenter/View/7327/Attachment-2---Investment-Report>
3. City of Banning Broker Investment Report – March 2020
<https://banningca.gov/DocumentCenter/View/7328/Attachment-3---CITY-OF-BANNING-INVESTMENT-REPORT-AS-OF-March-2020>
4. LAIF / PMIA Performance Report
https://banningca.gov/DocumentCenter/View/7325/Attachment-4---PMIA-LAIF_perform-March-2020
5. LAIF Market Valuation Report March 2020
<https://banningca.gov/DocumentCenter/View/7326/Attachment-5---LAIF-Market-Valuation-March-2020>

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

Approved by:



Douglas Schulze, City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: May 12, 2020

SUBJECT: Authorize Purchase and Sales Agreement – 447 E. Ramsey Street

RECOMMENDED ACTION:

Authorize the City Manager to execute the Purchase and Sales Agreement for acquisition of 447 E. Ramsey Street.

BACKGROUND:

On March 24, 2020, the City Council previously discussed and gave direction to proceed with an appraisal, Phase I Environmental Site Assessment (ESA), and a Purchase and Sales Agreement for the acquisition of property located at 447 E. Ramsey Street. The appraised value of the property was consistent with the listing price of the property so, the City Council agreed to proceed with acquisition, pending completion of the Phase I ESA with a clean outcome.

The seller has accepted the City's offer to purchase the property in the amount of \$340,000. The Phase I ESA has been started and is expected to be completed soon. We do not anticipate any concerns arising from the environmental assessment.

Funding for the acquisition is recommended as a loan from non-ratepayer Electric Utility Funds to the General Fund, which will be paid back over terms to be established via a Promissory Note that will include an interest rate consistent with rates earned by City investment funds. Upon sale of the property, the loan would be paid in full.

JUSTIFICATION:

Acquisition of this property is consistent with the economic development strategies of the City and the goal of cleaning up the E. Ramsey Street corridor.

FISCAL IMPACT:

Acquisition of the parcel is \$340,000, plus closing costs. Funding will come from Electric Utility Non-ratepayer revenues. Upon sale of the property, proceeds from the sale will be received by the Electric Utility. If the City chooses to demolish the structures on the site, estimated cost based on most recent bids for demolition is \$25,000.

OPTIONS:

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

ATTACHMENTS:

1. Purchase and Sales Agreement
<https://banningca.gov/DocumentCenter/View/7353/Att-1-Purchase-and-Sale-and-Escrow-Instructions---Pingdong---447-E-Ramsey-St>

Approved by:

A handwritten signature in blue ink, appearing to read 'DS', is written over a horizontal line.

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Laurie Sampson, Executive Assistant

MEETING DATE: May 12, 2020

SUBJECT: Resolution 2020-60 Authorizing Participation in the County of Riverside's Urban County Program for Fiscal Years 2021-22, 2022-23, and 2023-24

RECOMMENDED ACTION:

It is recommended that City Council consider:

1. Adopting Resolution 2020-60, authorizing the City's participation in the County of Riverside's Urban County Program for Fiscal Years 2021-22, 2022-23, and 2023-24;
2. Authorizing the City Manager to sign the Notice of Qualification; and
3. Authorizing the Mayor to execute the agreement.

BACKGROUND:

The City has historically participated in the Riverside County Urban County Program as a source of funding for community and neighborhood programming and revitalization. Riverside County acts as a direct conduit administering CDBG funds directly to participating cities through the program.

Every year, the City notifies the public and past applicants of the upcoming funding availability, which also encourages applications for potential programs and physical improvements tied to funding requirements.

Entitlement Funding for the County is determined by a formula based upon several criteria including: housing inventory, population, and poverty levels. The County then utilizes a similar formula for cities participating in the Urban County Program.

On October 25, 2016, the Council approved Resolution 2016-105, which approved a 2017-18 Fiscal Year Community Development Project, with an award of \$169,843. Funding from the award was applied solely to the Lion's Park expansion project.

ISSUES/ANALYSIS:

The County of Riverside, as part of its ongoing administration of the Urban County Program must certify cooperating city participation through an executed agreement and City Resolution, in three year increments. By approving the Resolution and Cooperating Agreement, the City will remain eligible for Community Development Block Grant funding through the County of Riverside's Urban County Program for the next three fiscal years, through 2023-24.

FISCAL IMPACT:

By approving the Cooperating Agreement, the City can continue to receive an annual entitlement for the next three (3) fiscal years. Each year the entitlement amount varies but is approximately \$170,000 that can be used for community benefit and associated programs.

ALTERNATIVE:

Reject Cooperating Agreement with the County of Riverside and provide staff with alternative direction.

ATTACHMENTS:

1. Resolution 2020-60
<https://banningca.gov/DocumentCenter/View/7330/Att-1-Resolution-2020-60--Three-Year-Urban-County-Qualification>
2. Notice of Qualification
<https://banningca.gov/DocumentCenter/View/7331/Att-2-Three-Year-Urban-County-Qualification>

3. Draft Cooperation Agreement for the Community Development Block Grant, Home Investment Partnership Program, and Emergency Shelter Grant for Fiscal Years 2021-22, 2022-23, and 2023-24.

<https://banningca.gov/DocumentCenter/View/7332/Att-3-Draft-Coop-Agreement-2021-2024update-5620>

Approved by:

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Douglas Schulze, City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Public Works Director/City Engineer

MEETING DATE: May 12, 2020

SUBJECT: Approving the Purchase of the Swiftly Platform for the City's Transit Operations for a period of Five Years in the Amount of \$79,830

RECOMMENDED ACTION:

That the City Council approve the purchase of the Swiftly Platform for the City's Transit Operations for a period of five years in the amount of \$79,830.

BACKGROUND:

Swiftly is a big data platform developed to help transit agencies and cities improve urban mobility. Swiftly utilizes billions of data points using sophisticated algorithms to improve transit system performance, service reliability and real-time passenger information.

The Swiftly platform includes "Transitime", which provides accurate real-time information for riders and dispatchers via the web and transit mobile apps such as Google Maps, Transit and Moovit. Information provided includes maps showing transit vehicles moving in real-time and accurate arrival prediction; a useful tool for riders and City staff.

JUSTIFICATION:

Swiftly will make several current processes with dispatch operations much more efficient including: tracking bus locations, currently done by receiving calls from drivers; handling large volume of calls from riders inquiring the location and bus arrival times; and provide performance information regarding routes to be able to identify inefficiencies in order to make informed adjustments that increase service reliability. Swiftly will also enhance the experience of using the City's transit system.

FISCAL IMPACT:

The Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006 general election, authorizes the issuance of \$19,925,000,000 in general obligation bonds for specified purposes, including grants for transit system safety, security and disaster response projects.

If the Swiftly purchase is approved, most of the funds will come from Proposition 1B grant funds currently held by the City:

FISCAL YEAR	GRANT AMOUNT
Prop 1B 09/10	\$19,696.62
Prop 1B 10/11	\$19,826.33
Prop 1B 11/12	\$19,804.52
Prop 1B 12/13	\$20,155.50
Fund 610 (Transit)	\$347.03
TOTAL	\$79,830

ALTERNATIVE:

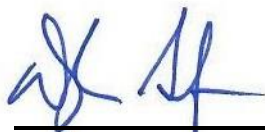
Do not approve the purchase of Swiftly.

ATTACHMENTS:

1. Swiftly Proposal

<https://banningca.gov/DocumentCenter/View/7351/Att-1-Trillium-Swiftly-Proposal>

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
Kevin Sin, Senior Civil Engineer

MEETING DATE: May 12, 2020

SUBJECT: Adopt Resolution 2020-58, Approving Amendment No. 2 to the Professional Services Agreement with Engineering Resources of Southern California to Increase the Total Compensation by \$750,000 and to Extend the Term of Agreement through June 30, 2021 for Plan Check, Inspections and Related Administrative Services

RECOMMENDED ACTION:

City Council adopt Resolution 2020-58:

1. Approving Amendment No. 2 to the Professional Services Agreement with Engineering Resources of Southern California (ERSC) for an additional \$750,000 and to extend the term of the agreement through June 30, 2021 for plan check, inspections and related administrative services.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement Amendment No. 2 with ERSC.
3. Authorizing the City Manager to execute Amendment No. 2 to the Professional Services Agreement with ERSC.

BACKGROUND:

The Public Works Department, currently staffed with two full-time engineers and one inspector, administers an array of services including management of capital improvement and infrastructure projects related to the design and construction of water, wastewater, streets, storm drain and building infrastructure. In addition to managing public works projects, staff is also responsible for processing private land development projects.

Due to staff resources and the anticipated work load related to land development projects such as the Atwell Development (previously known as the Butterfield Specific Plan), the City Council adopted Resolution No. 2019-05 on January 8, 2019 awarding a professional services agreement to ERSC for plan checks, inspections and related administrative services in the amount of \$250,000 on an as needed basis; and on January 14, 2020, the City Council adopted Resolution No. 2020-05, approving Amendment No. 1 to increase the contract amount by \$350,000. The contract is set to expire on June 30, 2020.

Staff recommends an increase in compensation in the amount of \$750,000 to the existing agreement with ERSC as well as an extension in the term of the agreement through June 30, 2021 to continue to receive the much-needed services through fiscal year 2020/2021.

JUSTIFICATION:

ERSC has done an excellent job providing the required services (e.g. plan checks, review of technical studies and construction inspections) to meet the demands of Pardee's Atwell development. It is anticipated that the demands created by Pardee's project will continue through the next fiscal year, hence staff's recommendation to increase the compensation and term of ERSC's agreement with the City. If approved, Amendment No. 2 will assure that we process development projects in a timely manner.

FISCAL IMPACT:

An appropriation from the General Fund in the amount of \$750,000 to Account No. 001-3000-442.33-53 is necessary and will be directly offset by revenues collected from plan check and inspection fees collected by the Public Works Department. Funds exhausted to date have been 100% recovered by said fees, which are collected prior to providing ERSC the approval to proceed with work.

ALTERNATIVE:

Do not approve Resolution 2020-58. This alternative would cause a reduction in the level of service to private development applicants in the processing of their projects. Additionally, staff would have less time to work on the City's capital improvement projects.

ATTACHMENTS:

1. Resolution 2020-58
<https://banningca.gov/DocumentCenter/View/7349/Att-1-Resolution-2020-58>
2. Amendment No. 2
<https://banningca.gov/DocumentCenter/View/7350/Att-2-C00472-ERSC-Amendment--2>

Approved by:

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Doug Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: May 12, 2020

SUBJECT: Resolution 2020-59, Authorizing CARES Act Emergency Solutions Grant Application

RECOMMENDED ACTION:

City Council adopt Resolution 2020-59 approving the application for grant funds from the County of Riverside for the CARES Act – Emergency Solutions Grant

BACKGROUND:

The CARES Act is federal funding that was approved by the United States Congress in response to COVID-19. The aid was provided to local governments with populations of 500,000 or more so, Riverside County is the only local government in Riverside County to receive direct funding. City staff is working with our grant writing consultants to prepare a grant application that will provide funding for operating costs associated with the emergency homeless housing (Ramsey Street Village).

Operation costs associated with Ramsey Street Village include, but are not limited to:

- Utility charges (water, sewer, and electric);
- Law enforcement labor costs;
- Part-time Housing Specialist position;
- Office supplies;
- Portable restroom, shower and laundry trailer;
- Maintenance and upkeep.

JUSTIFICATION:

The Ramsey Street Village project is a qualified program and an important resource for achieving the City Council goals.

FISCAL IMPACT:

Successful grant application would provide revenue to support Ramsey Street Village.

OPTIONS:

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

ATTACHMENTS:

1. Resolution 2020-59
<https://banningca.gov/DocumentCenter/View/7333/Att-1-Resolution-2020-59>

Approved by:

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Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Adam B. Rush, Community Development Director
Kevin G. Ennis, City Attorney

MEETING DATE: May 12, 2020

SUBJECT: Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, Inc. for the Operation of an Electronic Message Center; and Ordinance No. 1562, An Ordinance of the City of Banning, California, approving an Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, 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)]

RECOMMENDED ACTION:

That the City Council waive full reading of, and introduce Ordinance No. 1562, approving the Amended and Restated Development Agreement No. 11 between the City of Banning and AMG Sign Company, Inc. ("AMG").

BACKGROUND:

AMG requested that the City enter into a Development Agreement for the construction and operation of an electronic message center at 583 West Livingston Street, near the Interstate 10 freeway. More specifically, AMG seeks to develop a double-face marquee electronic message center of maximum height of eighty (80') feet and maximum display face of 1,200 square feet (25' X 48').

On January 15, 2020, the Planning Commission held a noticed public hearing on the Development Agreement (DA) No. 11 and Conditional Use Permit (CUP) 19-8009, which authorized the electronic message center, subject to certain conditions. The Commission

adopted Resolution 2020-02, approving Conditional Use Permit 19-8009 and recommending that the City Council approve the agreement.

The material presented to the Planning Commission indicated that the electronic message center would “assist in providing income for the City through the generation of a franchise fee based upon a percentage of advertising revenue.” Therefore, the draft agreement that was presented to the City Council required AMG to pay an annual fee of at least \$50,000. The draft agreement also included provisions requiring the removal of the electronic message center after the expiration of the term of the agreement.

On February 25, 2020 the City Council adopted Ordinance 1558, approving the Development Agreement, labelled as “Development Agreement Number 11,” between the City and AMG for the construction and operation of an electronic message center. Development Agreement No. 11 was executed on March 5, 2020 by the City and by AMG.

AMG now seeks to amend the Agreement. City staff has reviewed AMG’s requested amendments and prepared the *Amended and Restated Development Agreement No. 11* that incorporates the changes sought by AMG with some revisions for clarity. The proposed language makes four changes, summarized below:

1. Change references of “AMG Outdoor Advertising, Inc.” to “AMG Sign Company, Inc.”
2. Eliminate the requirement that AMG pay the City a \$50,000 annual fee, in lieu of incorporating the following public benefits, which are modifications of existing public benefits under the Agreement:
 - (i) allowing for a discount available to one local business, in good standing with the Chamber of Commerce, per month on advertising rates; and
 - (ii) allowing the City an additional public service message.
3. Revise the advertising content control provisions so that certain advertising that was restricted under the original agreement would be allowed.
4. Remove the provision allowing the City to require the sign to be removed at the expiration of the Agreement if an extension to the Agreement is not made.

City staff, in parallel with the City Attorney’s Office, has reviewed and evaluated the most recent changes and amendments, proposed by AMG, and prepared the *Amended and Restated Development Agreement* to include the changes sought by AMG and by incorporating minor corrections and clarifications to AMG’s proposed changes.

JUSTIFICATION:

Changes to Fee and Public Benefits

In consideration for allowing AMG to develop and operate the electronic message center as provided under the Agreement, the original Development Agreement, provided that the City receive certain benefits, including an annual fee of \$50,000 to the City.

Also, the original Development Agreement required AMG to provide other public benefits, including:

- (i) providing a discount of 50% off the normal (full rack) display rates to local businesses with an annual gross income not in excess of one million dollars [Section 4.3]; and,
- (ii) requiring the electronic message center to display the City name and logo as well as provide the City with certain public message opportunities [Section 4.4].

In the proposed Amended and Restated Development Agreement, AMG seeks to provide two alternative public benefits, acting in lieu of the items referenced above, for the City's consideration. These new public benefit provisions are summarized as follows:

- (i) *Any business located in the City, and which is a member in good standing of the Banning Chamber of Commerce will be entitled to post up to one, eight (8) second, advertisement per minute per month at fifty percent (50%) discount off of the normal (full rack) Electronic Message Center display rate(s). AMG shall provide such discount advertising to only one qualifying business each month, as selected by the Chamber of Commerce. AMG estimates the value of such discount to be Eighteen Thousand Dollars (\$18,000) per month.*
- (ii) *In addition to the City's existing right to place one eight (8) second Public Service Message per minute on one face of the Electronic Message Center per paragraph 4.4 of the Agreement, the City will also be entitled to post up to one additional eight (8) second advertisement per minute per month on one side of the Electronic Message Center.*

The new language regarding the discount to local businesses now allows any business in the City, regardless of size, to apply for and obtain this benefit, but the business must be in good standing with the Chamber, and the Chamber will decide which business receives the discount. AMG asserts that the value of this benefit to one City business per month is equal to approximately \$18,000.00. The City has independently verified this estimate.

Changes to Advertising Content Control

Section 4.4.1, the original Development Agreement, limited the content of advertising that may be displayed on the electronic message center. Under the previously approved wording of this Section, AMG would not be able to display “any advertising for adult entertainment, mud wrestling, alcohol (except beer and wine), tobacco products of any type, or other content that could be reasonably considered sexually explicit or pornographic by community standards.” Further, the Agreement reserved the City’s right to object to any other advertising that may be considered “detrimental to the image” of the City.

In the proposed Amendment language, AMG seeks to remove this provision and replace it with a less robust restriction on advertising content. Under the proposed language, AMG would agree that the advertising would not “display any advertisement that is obscene or depicts or makes reference to any (a) strip club, or gentlemen's club featuring nude or partially-clothed dancers or wait staff, (b) pornographic materials, (c) sexually oriented novelty products, (d) adult books, magazines, website, videos or other similar forms of adult entertainment, and (e) stores, websites or establishments selling or featuring any of the foregoing materials.”

The proposed revisions have the effect of allowing for mud wrestling, alcohol, and tobacco products. The proposed revisions also remove the City’s ability to object to advertising the City considers detrimental to the City’s image.

Changes to Sign Removal Provisions

The original Agreement, provided in Section 5, that the electronic message center may be removed at the end of the Agreement if the Agreement is not extended and provides that the site should be restored to its original condition.

In the Amendment, AMG proposes to remove these Sections entirely and replace them with the following:

Electronic Message Center is being constructed at a site pursuant to a lease between OWNER and the owner of such real property. Upon the expiration of the Agreement, OWNER’s obligations as to any removal of the Electronic Message Center and restoration of the real property where it is constructed shall be left to the terms of any lease or other contract between OWNER and the owner of record of the real property.

The result of this change is to remove the authority under the Agreement, that provides the City a right to remove the electronic message center upon termination of the Development Agreement. This will mean that once the ten (10) year term of the Agreement expires, the Owner will get to retain and continue to use the sign, subject to

the terms of the Conditional Use Permit, but the public benefits of the sign will no longer be required by the Development Agreement because the Agreement requiring those benefits will have expired.

FISCAL IMPACT:

All activities, permits, and plan checks, conducted by the City of Banning and its contractors (as applicable) – including the payment of Development Impact Fees (DIF) – will be reimbursed and/or paid directly by the developer. The City will no longer receive a \$50,000 annual fee from the developer. In its place, one business per month, as selected by the Banning Chamber of Commerce, will be allowed to have one (1) eight second per minute for month advertisement and the City will be allowed to have two (2) eight second per minute per month community service advertisements.

OPTIONS:

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

ATTACHMENTS:

1. Ordinance No. 1562, Approving Amended and Restated Development Agreement No. 11
<https://banningca.gov/DocumentCenter/View/7342/Att-1-Ordinance-1562>
2. Amended and Restated Development Agreement No. 11 (with changes shown)
https://banningca.gov/DocumentCenter/View/7343/Att-2-Redline-AMG-Amended-and-Restated-DA_REDLINE_05-12-2020abrv4

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: Carla Young, Business Support Manager
Amber Rockwell, Public Benefits Coordinator
Tom Miller, Electric Utility Director

MEETING DATE: May 12, 2020

SUBJECT: Resolution 2020-57, Authorize Participation in California's Low Carbon Fuel Standard by Entering into the Multilateral Clean Fuel Program Governance Agreement with Various Electric Utilities

RECOMMENDED ACTION:

City Council adopt Resolution 2020-57 approving the following:

1. Determine that the proposed action is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3), the "common sense exemption" in that CEQA applies only to projects which have the potential for causing a significant effect on the environment.
2. Authorize participation in the Clean Fuel Rewards ("CFR") program and authorize the City Manager or Electric Utility Director to enter into the multilateral Clean Fuel Rewards Governance Agreement, and any other documents, exhibits and Agreements necessary to effectuate and administer the CFR Governance Agreement.
3. Authorize the City Manager or Electric Utility Director to implement, administer, approve, and sign any amendments to the CFR Governance Agreement (including any and all exhibits and additional Agreements that are part of the Governance Agreement) that may occur from time to time under the terms of the CFR Governance Agreement.

4. Authorize City staff to negotiate and finalize an individual deposit account with the appropriate financial institution consistent with the provisions of the CFR Governance Agreement, and to deposit Banning's share of the monetized Low Carbon Fuel Standard base credits into an individual deposit account as required by the CFR Governance Agreement.
5. Approve the Joinder Agreement between Southern California Edison ("SCE"), as the statewide CFR Program Administrator, and the City of Banning Electric Utility ("BEU") as one of the Participating Electric Distribution Utilities ("EDU") which incorporates all of the terms and conditions of the CFR Governance Agreement among SCE, Pacific Gas & Electric Company ("PG&E"), San Diego Gas & Electric Company ("SDG&E"), Los Angeles Department of Water & Power ("LADWP"), Sacramento Municipal Utility ("SMUD") and other EDU Parties.

BACKGROUND:

The Low Carbon Fuel Standard ("LCFS") program was established and administered by the California Air Resources Board ("CARB") as a means to reduce greenhouse gas emissions associated with petroleum-based transportation fuels. The LCFS program is a market-based regulation using a cap-and-trade approach to encourage the use of low-carbon fuel alternatives such as electricity and renewable fuels. Under the LCFS program, CARB issues one LCFS credit for each metric ton of avoided greenhouse gas emissions associated with the use of electricity as a transportation fuel. LCFS credit may be sold on open markets to entities such as refineries that have a transportation related greenhouse gas emission reduction compliance obligation. Electric utilities, such as Banning Electric Utility ("BEU"), are awarded LCFS credits for reducing transportation emissions through three LCFS programs:

1. The Residential Non-Metered Electric Vehicle ("EV") Program;
2. The Public Access EV Charging Program; and
3. The Electric Forklift Program

Current legislation in place such as AB 32 mandates GHG emissions to be reduced to 1990 levels by 2020. Additionally, SB 32 mandates 40% GHG emissions reductions from 1990 levels by 2030. SB 350, requires development of IRP, addressing of Transportation Electrification ("TE") program and goals along with the retail impacts of TE. California's executive orders, through B-48-18 are to replace 5 million gasoline vehicles by ZEVs (zero emissions vehicle) by 2030, as well as to install 250,000 charging stations by 2025, and install 10,000 fast chargers by 2025. Additional California orders through B-16-12 are to have 1.5 million ZEVs by 2025, Carbon Free busses by 2029, and local policy's and goals must include a Climate Action Plan.

According to DMV records, BEU currently has 163 EVs registered to residents within the city. With the LCFS program in place, staff anticipates over \$300,000 in yearly revenue based on these current registrations. With robust rebates to facilitate an increase of EVs registrations within the city, the revenue will also increase. Per the LCFS program rules, these revenues must be used to encourage electric transportation through EV education and public outreach, and similar purposes to benefit current and future EV owners through programs like investment in EV charging infrastructure, EV rebates and EV charger rebates. City Council recently approved the lease agreement for a 2020 Hyundai Kona EV. This vehicle, along with the Chevy Bolt EV also recently acquired by BEU, is the beginning of implementing these requirements. Staff strategically chose these vehicles based on market sales and local availability.

CFR “Point-of-Sale” Program

Under the LCFS regulations, CARB has created the CFR program to facilitate a statewide point-of-sale rebate program to encourage consumers to purchase EVs. Point-of-sale rebates have the advantage of appearing on the EV invoice as a credit towards the price when the EV is purchased at the dealer, rather than requiring the consumer to pay the full price of the EV at the time of purchase and apply for a rebate afterwards.

The CFR program will be funded by requiring participating utilities to transfer a portion of the revenues derived from the sale of LCFS credits (2% of the revenues in BEU’s case) to the CFR program administrator that will implement all aspects of the point-of-sale rebate program. To ensure adequate funding, CARB will require that electric utilities participate in the CRG program once it has been implemented in calendar year 2020. Utilities that do not participate in the CFR program will not receive any LCFS credits from the Residential Unmetered EV program. Participation in the program will generate additional funds for the already budgeted EV rebate program, as well as other related programs. In addition, participating utilities will also have to set aside start-up funds for the CFR; this money can come from LCFS revenues. For Banning, it is estimated that the one-time start-up funds will be approximately \$1441. All of the expenditures will be funded from revenues derived from the sale of LCFS credits.

CFR Administration and Governance Agreement

The CFR Governance Agreement will be signed by numerous electric utilities in California. It will enable BEU to participate in California’s LCFS program and requires BEU to transfer a portion of revenues derived from the sale of LCFS credits to the CFR program administrator. Since CARB is not prepared to handle the complexity of implementing and administering the statewide point-of-sale rebate program, it has designated SCE to run the CFR program. All electric utilities that wish to participate in the CFR must enter into the multi-lateral CFR Governance Agreement that has been negotiated and drafted by interested parties. SCPPA’s administration and legal personnel took part in these negotiations representing BEU and other SCPPA members over the

past year. The CFR Governance Agreement specifies how the point-of-sale program will work; how funds will be collected, managed and used; participant's voting rights; accounting and reporting methodologies; various parties rights and obligations; and so forth.

Risks and Uncertainties with the CFR Program

During the course of negotiations, it was identified and attempted to resolve several areas of potential concern regarding the CFR Governance Agreement. While the parties have worked cooperatively to address many of the issues, there are two key potential risks and uncertainties associated with entering into the agreement:

- Insurance/Liabilities: While SCE must provide insurance to cover their potential liabilities as CFR Program Administrator, they will only procure insurance for the overall CFR program and its participants if such insurance is commercially available. Absent this insurance, there is some possibility that CFR program liabilities unrelated to SCE's performance would ultimately be shared by all CFR participants on a pro-rata basis (BEU's current share of such liabilities is estimated to be at 0.00% of the program total). It is important to note, that BEU can withdraw from the CFR program at any time, by providing sufficient notice (90 days).
- Voting Rights/Contract Modification: The small and medium CFR participants, such as BEU, have a combined voting percentage of 17%. The Governance Agreement allows for an 80% super majority for amendments to major sections of the Governance Agreement (such as insurance, indemnifications, liability and termination, to name a few) or 50% majority to modify other sections of the Governance Agreement, rendering the small and medium POU voting rights insignificant, on their own. However, if the Sacramento Municipal Utility District (SMUD) or LADWP were to align with the small and medium POUs, the voting percentage can make a difference.

Staff has determined that these risks are manageable and relatively small compared to the overall benefits. Non-participation in these agreements will prevent BEU from participating in the LCFS program and a potential estimated \$300,000 per year added to our revenue stream.

Timing of the CFR Program

The CFR Program became effective when the large five utilities (SCE, PG&E, SDG&E, SMUD and LADWP) signed the Governance Agreement on March 3, 2020. This recommendation allows Banning to sign the Governance Agreement-Joinder Agreement for EDUs that are not the large five utilities, at any time, once City Council approval is received. The Joinder Agreement allows the non-large five utilities to sign on to the Governance Agreement, as the Governance Agreement is tailored for the large five

utilities. The Program is governed by a Steering Committee of 9 members: 5 voting representatives from each of the large EDUs; 2 voting representatives representing the Northern and Southern California medium and small EDUs; 1 non-Voting CARB representative; and 1 non-voting program Administrator representative.

Entering into the CFR Governance Agreement is the only means to participate in the full scope of the LCFS program. This is in the best interest of the City, as it will enable BEU to participate in the CFR program and receive LCFS credits worth approximately \$300,000 annually, to support Banning's efforts to reduce GHG emissions from the transportation sector.

JUSTIFICATION:

The proposed resolution is consistent with the California mandates in reducing greenhouse gas emissions and increasing the use of clean vehicles and the 2018 Power Integrated Resource Plan goal of a 75% greenhouse gas emissions reduction by 2030. Furthermore, the associated revenues obtained through participation in the LCFS program support the City's goal of maintaining fiscal responsibility and stability by providing funding for these environmental initiatives.

The agreements facilitate Banning's participation in the CFR program and primarily serve organizational and fiscal functions, which do not commit Banning to a project with potentially significant impact on the environment. As such, these agreements do not constitute a "project" pursuant to CEQA and are exempt from CEQA review pursuant to Sections 15060(c)(3) and 15378(b)(4) of Title 14 of the California Code of Regulations.

FISCAL IMPACT:

There is no fiscal impact as a result of the recommended actions at this time. The recommended actions will enable the City to receive LCFS credits associated with the Residential EV program. The Residential EV program credits are expected to generate revenues of over \$300,000 annually to fund infrastructure and programs that support electric transportation throughout the City. All expenditures pursuant to the recommended actions, including start-up costs and ongoing transfers of funds to the CFR program administrator, will be funded from revenues derived from the sale of LCFS credits. Funding for the expenditures will be addressed by the utilization of these derived budgeted funds in the Public Benefits Fund 675 once the expense account is established.


OPTIONS:

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

ATTACHMENTS:

1. Resolution 2020-57
https://banningca.gov/DocumentCenter/View/7339/Att-1-2020-57_Resolution---Authoizing-LCFS-Governance-Agreement
2. Final CFR Governance Agreement
<https://banningca.gov/DocumentCenter/View/7340/Att-2-CFR-Governance-Agreement>
3. Joinder Agreement
<https://banningca.gov/DocumentCenter/View/7341/Att-3-Joinder-Agreement>

Approved by:

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Douglas Schulze
City Manager



CITY OF BANNING REPORT OF OFFICERS

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: May 12, 2020

SUBJECT: Resolution 2020-56, Establishing Fiscal Year 2020/2021 Service Charges for the Collection, Transportation and Disposal of Solid Waste

RECOMMENDED ACTION:

City Council adopt Resolution 2020-56 approving the following:

1. Establishing the Fiscal Year 2020/2021 rate increase for the Collection, Transportation and Disposal of Solid Waste Services.
2. The Fiscal Year 2020/2021 rate adjustment for the Collection, Transportation and Disposal of Solid Waste services shall be effective July 1, 2020 and is equal to an overall increase of 2.57%.
3. Rescind all previous Collection, Transportation and Disposal of Solid Waste rate structures.
4. Authorizing the City Clerk to certify the adoption of this resolution and to have said resolution filed in the book of original resolutions.

BACKGROUND:

The City of Banning ("City") entered into a Franchise Agreement ("Agreement") for the Collection, Transportation, and Disposal of Solid Waste with Waste Management of the Inland Empire (WM) in 1993 for an eight-year period.

Subsequently, the City Council at its regular meeting on April 24, 2001, adopted Resolution 2001-35, extending services through the First Amendment for an additional five years as allowed per the Agreement, from July 1, 2001 to June 30, 2006. The Agreement was also re-negotiated to include automated services.

On March 15, 2002 under Resolution 2002-28 and execution of the Second Amendment, the contract was re-negotiated to extend the Agreement for an additional five-year period from July 1, 2006 to June 30, 2011.

On December 12, 2006 under Resolution 2006-99 and with the execution of the Third Amendment, the agreement terms were modified and conditions of the Agreement for the collection of Bulky Waste were adjusted.

On June 28, 2011 under Resolution 2011-53 and with the execution of the Fourth Amendment, bulky item services were adjusted and the term was extended for an additional ten years from July 1, 2011 to June 30, 2021.

On September 25, 2018, under the approval of Resolution 2018-110, the Fifth Amendment was processed revising the methodology for determining the annual rate adjustment calculation.

The Agreement allows for an annual rate adjustment and requires that adjustments adhere to the requirements of Proposition 218 (Prop 218), including: 1) providing notification to all affected property owners and rate payers of the proposed rates and instructions for those who wish to protest the rate increases; 2) holding a public hearing at least forty-five (45) days after mailing the notifications; and 3) rejecting the proposed rate adjustments if written protests are presented by a majority (fifty percent plus one) of affected property owners or rate payers; only one protest per parcel would apply.

A Prop 218 process was last administered in July of 2018 and approved by rate payers and City Council under Resolution 2018-110 at a Public Hearing on September 25, 2018. The approval allowed for rates to be adjusted annually, utilizing an approved methodology, for a five (5) year period.

To date, under the most recently approved Prop 218 process and City Council approved Resolution 2018-110, rate adjustments were implemented in October of 2018 and July of 2019. As a result, three (3) remaining future adjustments are permitted to occur July 1st of 2020, 2021 and 2022.

JUSTIFICATION:

On April 20, 2020, WM requested an annual rate adjustment for Fiscal Year 2020/2021 (July 1, 2020 - June 30, 2021), as shown in the attached letter. The term of the current Franchise Agreement is valid through June 30, 2021; however, staff is currently negotiating

a new Franchise Agreement with Waste Management. Although these negotiations are underway, they will not be completed before July 1, 2020, which is contractually the next approved date that WM can implement new rates as approved under the current Franchise Agreement and Proposition 218 process. As a result, WM has requested the rate increase.

Pursuant to the Franchise Agreement, there are two components to the solid waste service rate that require evaluation: 1) Service Component and 2) Disposal/Green Waste Processing Component. The service component, which makes up sixty-five percent (65%) of the solid waste service rate, may be adjusted by the percentage increase in the Consumer Price Index ("CPI"), for the All Urban Consumers, for the Riverside-San Bernardino-Ontario Area as published by the United States Department of labor, Bureau of Labor Statistics for the March to March period immediately preceding the effective date of the rate adjustment. The Disposal/Green Waste Processing Component, which makes up thirty-five percent (35%), may be adjusted by the greater of either the CPI adjustment as explained above or the percentage increase in the per ton tipping fee established by the Riverside County Waste Management Department for disposal of Solid Waste for the March to February period immediately preceding the effective date of the rate adjustment.

In following the approved methodology, the change in the CPI for the index is 2.30% and will be applied to the service component of the rate. This year, the landfill Tipping Fee increased by 3.05% from \$39.31 to \$40.51 per ton and therefore will be applied to the disposal/green waste component of the rate. As a result, the overall rate adjustment will reflect an increase of 2.57%. The rate schedule is attached hereto.

FISCAL IMPACT:

The current residential rate for the collection of refuse is \$22.38 per month per household and the rate will increase to \$22.96. The commercial rate will be adjusted accordingly, as shown in the attached residential and commercial rate schedule. The new rate schedule will be effective July 1, 2020.

As previously mentioned, future rate increases are approved to occur July 1st of 2021 and 2022. For informational purposes, staff will report future rate adjustments to the City Council prior to implementation.

OPTIONS:

Reject WM's request to increase solid waste rates. If rejected, pursuant to the Franchise Agreement, WM shall have the right to dispute the denial action by pursuing measures outlined in the Franchise Agreement.

ATTACHMENTS:

1. Resolution 2020-56
<https://banningca.gov/DocumentCenter/View/7344/Att-1-Resolution-2020-56-WM-Rate-Increase-2020>
2. WM Rate Increase Letter dated April 20, 2020
<https://banningca.gov/DocumentCenter/View/7345/Att-2-WM-Letter-dated-April-20-2020>
3. Proposed Rate Schedule effective July 1, 2020
<https://banningca.gov/DocumentCenter/View/7346/Att-3-Proposed-Rates-Effective-July-1-2020>
4. Rate Comparison
<https://banningca.gov/DocumentCenter/View/7347/Att-4-Surrounding-Area-Survey>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: May 12, 2020

SUBJECT: Reduction of Public Comment Time to 3 Minutes

RECOMMENDED ACTION:

Discussion and direction to Staff.

BACKGROUND:

City Council has requested to include a discussion to reduce the amount of time allowed for public comment from 5 minutes per speaker to 3 minutes per speaker. An amendment to the City Council Manual of Procedural Guidelines will be required should the City Council wish to reduce the time allowed. The Manual was adopted by Resolution so, the amendment will also require a Resolution.

The 5-minute time limit per speaker allowed by the City of Banning is significantly more than other Cities in Riverside County and the Riverside County Board of Supervisors allows 2 minutes per speaker. City staff will need direction regarding:

- 1) Non-agenda item public comment time limit.
- 2) Agenda item public comment time limit.
- 3) Are speakers allowed to grant their time to another speaker.
- 4) Other changes or amendments to public comment time limits.

OPTIONS:

Discuss and provide direction to staff.

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: Kevin G. Ennis, City Attorney
Maricela E. Marroquin, Assistant City Attorney
Adam Rush, Community Development Director

MEETING DATE: May 12, 2020

SUBJECT: Discussion Item Regarding Cannabis Retailers, Distributors and Cultivators

RECOMMENDED ACTION:

That the City Council provide direction on the following items:

1. Numbers of Retailers Allowed. Whether the cap on cannabis retailers should be increased to allow all businesses on the lottery waiting list to apply (21 in total) which could allow up to 24 retailers in total to operate in City, or if a different cap should be set;
2. Processing New Retail Applications. How staff should process the additional retailer conditional use permit applications (i.e., all at the same time or in groups);
3. Tax on Distributors. Whether the Council wants to place a tax measure on the November 2020 ballot imposing a tax on cannabis distributors, and if so, at what tax rate; and
4. Modification of Cultivation Tax. Whether the Council wants to modify the cultivation tax rate which is currently set at \$15 per square foot per canopy space, or alternatively, change the methodology altogether.
5. Other Changes. Whether the Council wants to provide additional direction on other changes to the City's Cannabis regulations that the Council would like staff to explore.

BACKGROUND:

At its April 14, 2020 meeting, the City Council considered several options pertaining to expanding the cannabis program to increase the number of cannabis businesses operating in the City. The City Council directed staff to draft an ordinance allowing cannabis

distributors to operate in the City. The City Council also directed staff to amend the zoning code to allow cannabis retailers to operate in the General Commercial zone, to eliminate the separation requirement between retailers and residentially zoned property, and to eliminate the current cap on cannabis retailers which are currently limited to one for every 10,000 residents. Staff has drafted an ordinance consistent with the Council's direction. This draft ordinance was considered by the Planning Commission at its May 6, 2020 public hearing. Staff will orally update the City Council on the recommendations made by the Planning Commission and then will formally bring the Commission's recommendations at an upcoming meeting.

Today, staff seeks additional policy direction from the Council regarding the cap on allowable number of cannabis retailers and how staff should process the additional retailer conditional use permit ("CUP") applications before it presents the cannabis ordinance to the Council for its consideration. Staff is also seeking Council direction on whether it wants to impose a tax on cannabis distributors and whether it wants to alter the tax on cultivation facilities. Staff also requests Council input on whether it would like to make any additional revisions to the cannabis program.

At the April 14, 2020 meeting, the Council requested more information about how cannabis businesses are taxed. This memorandum also discusses how cannabis is taxed and collected by the State.

DISCUSSION:

A. Cannabis Retailers

On November 6, 2018, the Banning voters adopted Measure O establishing a tax on cannabis retailers. The tax was set as an annual tax of 10% of gross receipts of the cannabis retailer. The voters allowed the City Council to modify that tax rate to increase or decrease the rate as long as it does not exceed 15% of gross receipts. The ballot measure, the tax ordinance approved by the voters, and the argument in favor of Measure O are included as **Attachment A**.

In conjunction with Measure O, on December 11, 2018, the City Council adopted an ordinance that currently permits one cannabis retailer for every 10,000 residents. This equates to allowing up to three retailers to operate in the City. Also, on December 11, 2018, the City Council adopted a resolution establishing a process for determining which three cannabis retailers would be eligible to apply to obtain a regulatory permit and CUP to operate in the City. A copy of that Resolution is attached as **Attachment B**. Included as **Attachment C** is a timeline summarizing the regulatory permit and CUP approval process.

At the April 14, 2020 City Council meeting, the majority of the Council expressed its frustration at the pace of getting cannabis uses up and running in Banning and, for

purposes of remedying that issue, stated that it was in favor of: (1) eliminating this numeric cap and allowing retailers that are on the waiting list to apply for retailer permits, (2) eliminating the separation requirement between retailers and residentially zoned property, and (3) allowing retailers to operate in the General Commercial zone. Consistent with the Council's direction, staff has drafted an amendment to the zoning ordinance that was considered by the Planning Commission at its May 6, 2020 meeting. Staff is seeking direction from the Council on a few discrete issues related to allowing more retailers to operate in the City.

1. Elimination or increase of retailer permit cap

There were 24 businesses that participated in the lottery that was held on May 23, 2018 to determine which three businesses would be the first ones eligible to obtain cannabis regulatory permits and proceed to the CUP approval process for operation at specific sites. Two retailers, Black Sun Medicinals a.k.a. Empire Cannabis (Lottery Position #1) and Nourish Cannabis (Lottery Position #2) both obtained CUPs to operate in the City in January 2020. A third retailer, Harvest Corner, LLC (Lottery Position #3) has submitted a completed CUP application that is currently being processed by staff. Banning Municipal Code section 5.33.050(D) provides that a cannabis retailer has one year from the date of issuance of the cannabis regulatory permit to obtain a CUP. Harvest Corner, LLC submitted a complete CUP application on April 22, 2020 and only has until May 23, 2020 to obtain a CUP. City staff has prepared amendments to Section 5.33.050 of the City's Code that, upon approval by the Council at an upcoming meeting, will allow Harvest Corner, LLC an additional 30 days, until June 22, 2020, to obtain a CUP to operate in the City. If Harvest Corner, LLC successfully obtains a CUP, the CUP will be conditioned to require that the retailer submit building plans within as short a period of time as is feasible, such as within 60 days of the approval of the CUP or the CUP will be null and void.

Staff would like direction from the Council as to whether it wants to: (1) allow all 21 remaining retailers (other than the first three) that are currently on the waiting list to apply for a permit (which would potentially allow 24 retailers to seek approval to operate in the City), (2) allow a more limited number of retailers to operate in the City, or (3) allow an unlimited number of retailers to operate (i.e., allow businesses that are not on the waiting list to participate in the process).

If the City were to allow up to 24 retailers to operate in the City (or an unlimited number of retailers), this could significantly increase the amount of applicants, businesses and eventually local taxes that the City could collect from these businesses as there would be more businesses to collect taxes from. The Council should consider, however, whether this could oversaturate the market, and whether retailers would be discouraged from operating in the City given that there would be so much local competition. Of course,

opening up the process to all 24 retailers does not guarantee that they will all apply, or even that they would all obtain a CUP to operate in the City.

Another approach to consider is to increase the cap from three retailers to a higher number such as ten (10). In the San Geronio Pass area, there are three cities, Banning, Beaumont and Calimesa, and some unincorporated areas such as Cherry Valley and Cabazon. Of these cities, only Banning allows cannabis retailers to operate. The population of the three Pass Area cities combined is approximately 100,000. Therefore, the commercial market for cannabis sales may not be limited to the population of the City and the City may want to take into account the entire population of the San Geronio Pass area which exceeds 100,000. Using the figure of allowing one cannabis retailer for every 10,000 residents, but using the population of the San Geronio Pass (approximately 100,000 residents), this would allow for ten retailers to operate in the City.

Included as **Attachment D** is a comment letter the City received on April 24, 2020 from Nourish Earth, one of the retailers that has obtained a CUP to operate in the City, that opposes allowing additional retailers to operate in the City for a two-year period.

2. Processing of additional permit applications

Staff also seeks Council direction regarding how to process the permit applications. The City could allow all the retailers to apply at once which would, presumably, allow additional retailers to open up more quickly in the City. Staff has not yet contacted all the applicants on the waiting list to determine their interest in applying for CUP applications. Of the 21 applicants on the waiting list, City staff has begun to reach out to those applicants to determine which of them is still interested in operating in Banning.

Staff believes that there would be a benefit to the City to having an orderly process for processing the remaining 21 applications. That orderly process would be to generally honor the results of the lottery and allow applicants to apply based on their position on the waiting list while at the same time speeding up the application and approval process.

One alternative is to allow the applicants to apply, and to process their applications, in the order that they appear on the waiting list. This could, however, create a prolonged process where it could take several years to process all the retailer applications.

Instead, staff is recommending that staff send a letter to the applicants on the waiting list advising that they have 14 days to confirm, in writing, that they are still interested in applying for a CUP to operate a retailer in the City. Any applicant that does not respond within 14 days, or that states that they are no longer interested, will be removed from the waiting list. The letter would advise applicants that they have 90 days from the opening of the designated application period to submit a complete application for a CUP, and that if they obtain a CUP, a condition of approval would require that building plans be

submitted within the shortest period of time feasible, such as 60 days of approval of the CUP, or the CUP would be null and void.

Those applicants that remain on the waiting list will be categorized into groups depending on their lottery position, with a certain set number of retailers being permitted to apply at one time. For example, assuming the Council decides to allow all 21 applicants on the waiting list to apply (and assuming all the applicants still want to obtain a CUP), the City could follow a schedule such as the following:

Lottery numbers	Designated Application period
4 through 8	June 1, 2020 - August 31, 2020
9 through 13	September 1, 2020 - November 30, 2020
14 through 18	December 1, 2020 - March 1, 2021
19 through 21	March 2, 2021 - May 31, 2021

The applicants would be permitted to submit a completed CUP application during their designated application period (90 days for each application period). Any applicant that submits a completed application during their designated application period would have their application processed in the order that it is deemed complete. Retailers would be incentivized to apply quickly to ensure that their application is processed first. Staff would process all the applications until the cap was reached, assuming there was a cap instituted. If there is no cap, then all the applications would be processed.

The alternative would be to allow all applicants on the lottery waiting list, or any other applicants, to submit applications by a certain deadline. This approach has the benefit of allowing any applicant to seek and obtain approval and then compete against other applicants for approval, compete to open and establish market share before others, and to result in a market-driven limit on the number of retailers that could run profitable businesses in Banning.

In considering these two approaches, Staff is concerned that if all 21 remaining applicants, or an unlimited number of applicants, are all allowed to concurrently submit applications and seek approval, that decisions of the City to deem some of the applications complete and ready to move forward but not others, could result in challenges from applicants that the City's decisions to deem one application complete and ready to proceed but not another were incorrect. Also, the Planning Commission and City Council would likely be presented with multiple applications at once which could lead to significant pressure to approve one applicant over another. In sum, and based on the experience in other communities, this type of wide open process can lead to jockeying to be the first to get approved, which in many cases has led to litigation over decisions at each step in the process. The lottery process, in contrast, which the City has already completed, provides for options for the more orderly processing of applications and can lessen the risks noted above because the lottery already designates which applicant gets to proceed before others. If, however, the City Council prefers to undertake a process

untethered to the lottery list, staff will proceed to develop a process to best manage the volume of applications and the risks noted above.

3. Background check

Chapter 5.33 of the Banning Municipal Code requires that all cannabis retail owners and persons with a financial interest in a retailer pass a background check before they can participate in the lottery. All the retailers that are on the waiting list have met this requirement. However, since the background checks were conducted about a year ago, staff recommends that new background checks be run to ensure that there have not been any new disqualifying convictions by any owner or person with a financial interest in a retailer. This would delay the process for retailers to apply for a CUP as a business cannot apply for a CUP until it has first obtained a cannabis retailer regulatory permit. Alternatively, the Council could elect to allow the retailers to apply for a CUP, but make the issuance of the CUP contingent upon the passing of a background check. This would require an amendment to Chapter 5.33 of the Banning Municipal Code which requires that a background check be conducted before a regulatory permit is issued.

B. Cannabis Distribution

Pursuant to the Council's direction, staff has drafted a cannabis ordinance that will permit cannabis distribution facilities to operate in the Industrial zone. This draft ordinance was considered by the Planning Commission at its May 6, 2020 meeting for recommendation to the City Council.

1. Imposition of tax

If the City Council adopts an ordinance allowing cannabis distributors to operate in the City, the Council will need to determine whether to tax distributors, and if so, at what rate. Staff conducted a study of the tax rates that are being charged by cities in the counties of Riverside and San Bernardino, as well as the unincorporated areas of Riverside and San Bernardino counties. Attached as **Attachment E** is the chart compiling this information. There do not appear to be many jurisdictions that have a separate distribution tax, as opposed to a general tax on "other cannabis businesses" that do not fall into specific categories such as retailers and cultivators. From what staff was able to gather, for those cities that do impose a tax on distributors, they are charged a tax at the following rates: Adelanto (1% of gross receipts), unincorporated San Bernardino (2% of gross receipts), unincorporated Riverside County (\$3 per square foot as a community benefit fee), and San Jacinto (\$10 per sq. foot of gross building footprint used for any cannabis related activity including ancillary office and other administrative areas). In addition, Perris charges a tax at a rate of 10% of proceeds, but allows the business to deduct the amount of sales and use taxes and excise taxes collected from consumers and remitted to the State from their reported proceeds for the purpose of calculating their taxes owed to the

city. Palm Springs allows distributors to operate in its jurisdiction but does not tax the distributors.

The City could decide not to impose a tax on distributors and instead just rely on tax revenues from cultivators, manufacturers, testing laboratories and retailers. This would be consistent with the state taxation model which does not tax distributors. Instead, the state requires distributors to collect the cannabis cultivation tax from cultivators or manufacturers and to collect the excise tax from retailers and then transmit these taxes to the State. The City could follow that same approach and exempt distributors from a separate tax and instead focus on the taxes to be collected from the other functions in the cannabis chain. Having no tax on distributors would also place the City at a competitive advantage to other communities. However, this approach may reduce overall potential revenues and it may be difficult to change approaches once distribution uses are allowed and start operating in the City.

2. Process for Imposing Tax

If the City wants to impose a local tax on distributors, the tax would have to be approved by the voters. If the tax is a general tax, that is a tax that can be used for any governmental purpose, the tax must be approved by a majority of the electorate (50% plus one of the voters voting in the election vote in favor of the measure).¹ If the tax is a special tax (i.e., a tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund), the tax must be approved by a two-thirds vote of the electorate.² Measure O, the retailer tax, and Measure N, the tax on cultivation, manufacturing, and testing laboratories were both general tax measures.

Any measure imposing taxes must be considered at an election consolidated with a regularly scheduled general election for members of the City Council, except in cases of an emergency.³ In this case, the next regularly scheduled election at which members of the city council will be elected will take place on November 4, 2020. A measure imposing a general tax cannot be placed on the ballot unless it is approved by a two-thirds vote of all members of the City Council (4/5th vote).⁴

If the City Council is inclined to support imposing a tax on cannabis distributors, then the City Council may direct staff to begin working on a tax measure to be presented to the Council at a future meeting in June 2020.

¹ Cal. Const. art. XIII C, §§ 1(a) and 2.

² Cal. Const. art. XIII C, §§ 1(d) and 2.

³ Cal. Const. art. XIII C, § 2(b).

⁴ Cal. Gov. Code § 53724(b).

C. Cannabis Cultivation

1. Current Cannabis Cultivation Tax

On November 6, 2018, the Banning voters adopted Measure N imposing a tax on cannabis cultivation facilities. Measure N, which is codified in Banning Municipal Code (“BMC”) Chapter 3.17, sets the cannabis cultivation tax rate at \$15 per square foot of canopy space, but allows the City Council to increase or lower the tax rate as long as it does not exceed \$25 per square foot of canopy space. See BMC §§ 3.17.030(B) and 3.17.050(A). Canopy space is defined as the designated areas at a cultivation facility that will contain mature plants at any point in time. See BMC § 3.17.020. Any designated area in the cultivation facility intended for cultivation, whether the area is stacked with shelves, counts towards the canopy space. For example, a 10,000 square foot facility, could have 5,000 square feet of space designated for cultivation with the cannabis plants stacked on two levels for a total of 10,000 square feet of canopy space. Each area at a cultivation facility that will contain mature plants at any point in time (each level of the stacks) would count towards the area used to calculate the canopy tax.

2. Cultivation Tax in Other Jurisdictions

Staff reviewed the tax rates, contained in **Attachment E**, that are being charged by cities in the Riverside and San Bernardino County. By way of comparison, at least two cities in Riverside County impose the same or similar cultivation tax as Banning including Cathedral City (\$15 per square foot of canopy space) and Coachella (\$15 per square foot for the first 20,000 square feet and \$7.50 per square foot of the remainder of the grow area). At least one city in Riverside County imposes a tax that is higher than Banning’s tax including Perris (\$25 per square foot of canopy space). The following cities in Riverside County currently impose a lower tax per square foot of canopy space/cultivation area than the tax imposed by Banning, including: Moreno Valley (\$7), Palm Desert (\$13), Palm Springs (\$10), San Jacinto (\$10), and Blythe (\$3). In addition, unincorporated Riverside County charges different tax rates depending on the size of the cultivation operation, and whether the cultivation operation is indoors, outdoors, or uses mixed light. For indoor cultivation ranging from 10,000 to 43,560 square feet, the cultivator is charged a \$5.50 per square foot community benefit fee. Desert Hot Springs charges a tax of \$25.50 per square foot for the first 3,000 square feet of cultivation, and \$10.20 per square foot for the remaining space used for cultivation. Coachella has a hybrid approach where it charges cultivators a tax of \$15 per square foot for the first 20,000 square feet, and \$7.50/sq. foot for the remainder of the grow canopy area for the facility. In addition, wholesale gross receipts are taxed annually at 4% for cultivation. Staff was not able to identify any city in Riverside or San Bernardino County that imposes a strictly gross receipts tax on cannabis cultivators.

Staff is requesting direction as to whether the Council wants to retain the tax rate at \$15 per square foot of canopy space, change the tax rate to a different amount, or change the

tax rate to a percentage of gross receipts. If the Council desires to change the tax rate from the current \$15 per square foot of canopy space to a lower dollar amount per canopy space, the Council is permitted to do so without a vote of the people because Measure N specifically allowed for that adjustment to be made by the City Council. If, however, the City Council wants to change that tax to a gross receipts tax, this would be a change from the tax methodology set forth in Measure N and would require voter approval.

D. Summary of discussion with Matt Herald

At the April 14, 2020 City Council meeting, the Community Development Director discussed possible amendments to the cannabis ordinances to allow cannabis retailers to operate in the General Commercial zone. There was also a discussion about whether to allow cannabis distributors to operate in the City. Matt Herald with Next Gen Organix, Inc. spoke in favor of allowing cannabis distributors to operate in the City. The Community Development Director and the City Attorney's office subsequently contacted Mr. Herald to obtain more information about his proposal. Below is a summary of staff's discussion with Mr. Herald.

1. Cannabis Distributors

Mr. Herald explained that distributors are an integral part of the cannabis supply chain. Cannabis cultivators are required to use licensed distributors to transport their harvested cannabis products from the cultivation location to manufacturers and testing laboratories. The distributors collect the state's cultivator tax from cultivators as part of this process. In addition, all cannabis and cannabis products, whether from a cultivator or manufacturer, must be tested in laboratories, which again, must be transported to those laboratories by state licensed distributors. Finally, once the cannabis product has been tested and packaged, it is only state licensed distributors that are permitted to transport and sell finished cannabis products to cannabis retailers, from which the distributor is to collect the state required cannabis excise tax.

Distributors are an integral link in state licensed cannabis chain and in the State's cannabis tax collection scheme. If cannabis distributors are only located outside the City, then this important part of the cannabis supply chain would have to occur through distributors located outside the City leading to additional expenses and inefficiencies in that supply chain process. Accordingly, certain cultivators, manufacturers and testing laboratories may not want to locate in the City unless they know there is a stated licensed distributors also located close by in the City to take on these functions. Also, some cultivators and manufacturers want to operate the various license duties under one company and in one location. To accomplish that and incentivize those businesses to locate in Banning, distributors must be allowed to be a part of those business models.

In addition, since the distributors are required by the state to collect the state's cannabis tax from cultivators and the state's excise tax from retailers, some of those tax

transactions could be recorded as having occurred outside the City and thus avoiding City taxes on cannabis cultivation and manufacturing, thereby leading to potential diminution in the true amount of City taxes that should be collected on activities occurring in the City. For all these reasons, if the City wants to attract and maintain cultivators, manufacturers and testing laboratories, and ensure that the City gets its full and fair share of the taxes on those activities, Mr. Herald recommends that the City should allow the distributors to also locate in the City.

2. Cultivation Tax

Mr. Herald also explained that the cannabis cultivation tax should be calculated on a percentage of the gross receipts rather than on canopy space. He contended that this decreases the start-up costs for cultivators. This is because with a tax based on canopy space devoted to growing cannabis, the taxes would start to be owed as soon as the space is used to grow cannabis. In contrast, if the cultivation tax is based on gross receipts, the tax is not owed until the crop is harvested and transported to a testing laboratory or manufacturer. This change would effectively delay the point in time when the City tax would become due and owing and that added time allows for greater use of start-up funds for the cultivation activity rather than also having to use some of that start-up cost to pay the City tax.

In addition, he said that change would eliminate staff time spent measuring canopy space to determine the amount of tax that a cultivator must pay to the City. He explained that by using a gross receipts model, the City could collect the cultivation tax at the same time that the State cultivation taxes are paid, and because the State's required tax collection system would record the quantities that the distributor collects from the cultivator, there is a way to verify the quantities of the cannabis product and the dollar value of that product to which the gross receipts tax would apply. Mr. Herald noted that many cities do use a canopy space methodology for taxing cultivation and he would not be dissuaded from locating in Banning because of that tax methodology.

3. Large-scale cannabis operations

Mr. Herald also noted that beginning in 2023, large scale cannabis cultivators will be permitted to operate in the State. Currently, the largest size of a cultivation operation permitted under current State licensing is 22,000 square feet of canopy space. The City currently allows cultivators up to that current state maximum size. City staff researched

this issue and determined that beginning January 1, 2023, the State will start issuing licenses to the following cultivators:

- Type 5 for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.
- Type 5A for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.
- Type 5B for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

The City currently only permits commercial cannabis cultivation that occurs indoors and that contains not less than 10,000 square feet of canopy space and that does not exceed 22,000 square feet of canopy space. Mr. Herald suggested that the City consider allowing greater sizes of cultivation facilities under one or more of the Type 5 licenses.

4. Palm Springs' Cannabis Program

We asked Mr. Herald which city's tax scheme would he recommend. He referred us to Palm Springs. Staff has investigated the Palm Springs program and found that Palm Springs adopted a voter-approved measure imposing a maximum 15% gross receipt tax on all cannabis businesses except cannabis cultivation. Cannabis cultivators pay a \$10.00 tax per square foot of cultivation area. The tax measure allows the Palm Springs City Council to set the gross receipts rates by resolution based on business type. The current tax rate for retailers is 10% for gross receipts. In February 2019, the City Council adopted a resolution reducing the tax rate on manufacturers to 2% of gross receipts, and eliminated the tax on distributors and testing laboratories. The cannabis cultivation tax remains at \$10.00 per square foot of cultivation area. According to a February 2019 staff report, in Fiscal Year 2017-18 Palm Springs collected \$1,605,337 in cannabis tax revenue from all cannabis businesses except cultivators. For Fiscal Year 2018-19, it appears that Palm Springs collected roughly \$2 million in tax revenue from cannabis businesses, except cultivators. For Fiscal Years 2017-18 and 2018-19, Palm Springs did not collect any tax revenue from cannabis cultivation.

E. State Taxation of Cannabis

In California, the State imposes several taxes on commercial cannabis and cannabis products, including a cultivation tax and an excise tax. Additionally, cannabis and cannabis products are subject to sales and use tax. These taxes are imposed in addition to local taxes. These taxes are each briefly addressed below.

1. Cultivation Tax

The State imposes a cultivation tax on all harvested cannabis that enters the commercial market. The tax is based on the weight and category of the cannabis and the California Department of Tax and Fee Administration (“CDTFA”) annually adjusts the cultivation tax rates based on inflation.⁵ There are currently three categories of cannabis subject to this tax, listed here with their current tax rate: (1) cannabis flowers (\$9.65 per dry-weight ounce), (2) cannabis leaves (\$2.87 per dry-weight ounce), and (3) fresh cannabis plant (\$1.35 per ounce).⁶

Cultivators pay this tax to manufacturers or distributors when their harvested cannabis “enters the commercial market.” Where manufacturers are involved, manufacturers collect the cannabis cultivation tax from cultivators from which they receive unprocessed cannabis and provide the cultivator with a receipt. Manufacturers then pay the cultivation tax collected from cultivators to a distributor. Distributors collect the cannabis cultivation tax from cultivators and manufacturers from which they receive cannabis and/or cannabis products. Distributors provide an invoice or receipt to the businesses from which they collect the cultivation tax and distributors file cannabis tax returns and pay the amounts due to the CDTFA.

2. Excise Tax

The State imposes a 15-percent excise tax upon retail purchasers of cannabis or cannabis products.⁷ The 15-percent excise tax is calculated based on the average market price of the cannabis or cannabis products sold in a retail sale. The average market price is determined by the type of transaction (either “arm's length” - subject to an 80% mark-up - or “nonarm's length”) that occurred when the seller sold the cannabis or cannabis product to the retailer.

Retailers charge and collect the cannabis excise tax from customers who purchase cannabis and/or cannabis products. Retailers pay the cannabis excise tax that is due to the distributor that provided the cannabis or cannabis products. Distributors collect the cannabis excise tax from cannabis retailers they supply with cannabis and/or cannabis product and provide them with an invoice or receipt. Distributors file cannabis tax returns and pay the amounts due to the CDTFA.

Cannabis tax returns that are filed by distributors for excise and cultivation taxes can be due quarterly or monthly.

⁵ Cal. Rev. & Tax. Code § 34012(k).

⁶ 18 Cal. Code of Regulations § 3700(c). Rates available at: <https://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm>.

⁷ Cal. Rev. & Tax. Code § 34011.

3. Sales and Use Tax

In California, all retail sales of tangible personal property are taxable unless the law provides a specific exemption. Cannabis and cannabis products are generally considered tangible personal property and without a specific exemption, so sales of such property are subject to sales and use tax. Sales tax due on taxable cannabis sales at retail is computed on the selling price of cannabis, plus the cannabis excise tax. Sales and use taxes do not apply to the retail sale of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis.⁸

Retailers charge and collect sales tax on taxable retail sales of cannabis and/or cannabis products, and other products. Retailers file sales and use tax returns and pay the sales and/or use tax to the CDTFA. The statewide sales and use tax rate is 7.25%.

F. State Tack and Trace Program

1. Tracking of Sales

The State established a track and trace program, known as the California Cannabis Track-and-Trace (“CCTT”) system, for recording the inventory and movement of cannabis and cannabis products through the commercial cannabis distribution and supply chain, from cultivation to sale.⁹ The State contracted with a private company called METRC to provide the track-and-trace system. The CCTT system must be used by all cannabis businesses licensed by the State to record, track and maintain information about their cannabis and cannabis product inventories and activities, including taxable activities discussed above. Specifically, licensees must record the sale and transfer and receipt of cannabis goods.¹⁰

2. Local Access to Tracked Information Records

Local jurisdictions are authorized to request information received and contained in records kept within the CCTT database and with the State as necessary to perform official duties pursuant to a local ordinance or to assist in law enforcement.¹¹ According to a California Department of Food and Agriculture and the Bureau of Cannabis Control FAQ, the State’s cannabis licensing authorities are still developing procedures for vetting and processing CCTT data requests from local jurisdictions.

Alternatively, the City could seek options to access to the CCTT system directly. In March a couple counties entered into MOUs with State licensing authorities to establish a pilot program whereby the counties will be provided access to the CCTT data. So an

⁸ Cal. Rev. & Tax. Code § 34011(f).

⁹ Cal. Bus. & Prof. Code § 26067.

¹⁰ 16 Cal. Code of Regulations § 5049.

¹¹ Cal. Bus. & Prof. Code § 26067(b)(6)-(7).

agreement with the State could grant access to this system. Further, verified third-party vendors are allowed access to the CCTT system. These are the vendors that can interface with the CCTT system to obtain data from that system. Staff could explore whether any third party vendors provide tax collection assistance.

FISCAL IMPACT:

At this time, staff is unable to quantify the fiscal impact associated with any of the items for which it is seeking Council direction on. Once Council provides direction on the changes it would like to make to the cannabis program, staff will analyze the fiscal impact of these changes and provide information on the fiscal impact when it brings the draft ordinance back to the Council for its consideration.

ATTACHMENTS:

- A. Ballot Measures N and O and arguments in favor of Measures N and O <https://banningca.gov/DocumentCenter/View/7334/Attachment-A---Resolution-2018-82>
- B. 2018 Resolution Establishing Process for Applying for Cannabis Permits <https://banningca.gov/DocumentCenter/View/7335/Attachment-B---Resolution-2018-153>
- C. Timeline summarizing cannabis retailer permit and conditional use permit approval process
<https://banningca.gov/DocumentCenter/View/7336/Attachment-C---Timeline-for-Cannabis-Permits>
- D. April 24, 2020 letter from Nourish Earth
<https://banningca.gov/DocumentCenter/View/7337/Attachment-D---Letter-to-City-of-Banning>
- E. Chart summarizing cannabis taxation rates in Riverside and San Bernardino counties
<https://banningca.gov/DocumentCenter/View/7338/Attachment-E---Survey - Commercial-Cannabis-Activity-and-Associated-Tax-Rates>
- F. Presentation
<https://banningca.gov/DocumentCenter/View/7352/Attachment-F---Presentation>

Approved by:



Douglas Schulze
City Manager