



AGENDA

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

June 9, 2020
5:00 P.M.

Council Chamber
99 E. Ramsey Street
and via 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 in person and 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://us02web.zoom.us/j/84408588091?pwd=T2VIL2lVV3pxTncxVkk5czZPbnErQT09>

Meeting ID: 844 0858 8091

Password: 061075

One tap mobile: +16699009128,,84408588091#

Dial in: +1 669 900 9128 US

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Find your local number: <https://us02web.zoom.us/j/84408588091?pwd=T2VIL2lVV3pxTncxVkk5czZPbnErQT09>

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>
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 – Pastor Ryan Houssein, Calvary Chapel Sweethills
2. Pledge of Allegiance
3. Roll Call: Councilmembers Happe, Pingree, Wallace, Welch, and Mayor Andrade

II. AGENDA APPROVAL

III. PRESENTATION

Mayor's Special Recognitions

IV. REPORT ON CLOSED SESSION

City Attorney

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

A three (3) 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 – 12: 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 – May 26, 2020, Regular Meeting **1**
2. Minutes – May 26, 2020, Special Meeting (Closed Session) **49**
3. Notice of Completion for Project No. 2019-05, “Street Rehabilitation at Various Locations” **53**
4. Resolution 2020-74, Approving the Fiscal Year 2020/2021 – 2022/2023 Short Range Transit Plan and Authorizing the Submittal of the Fiscal Year 2020/2021 Funding Claims **55**
5. Comment Letter – White Paper on Economic Feasibility Analysis in Consideration of a Hexavalent Chromium Maximum Contaminant Level **57**
6. Approval of a Street Sweeping Services Agreement with Cannon Pacific Services, Inc. dba Pacific Sweep of San Marcos, California in the Amount of \$91,177 and Rejecting all Other Bids **61**
7. Award a Professional Services Agreement for the Design of the Wastewater Treatment Plant Equalization Basin to Albert A. Webb Associates in the Amount of \$217,536 and Approving a 10% Contingency for a Total Project Budget Not to Exceed \$239,289.60 **65**
8. Resolution 2020-73, Authorizing the Acceptance of an Allocation of Funds and Execution of CARES ACT Funding Grant Agreement with the Federal Aviation Administration (FAA) CARES Act Funding..... **69**
9. Resolution 2020-61, Authorizing Use of the Public Utilities Exceptions for Informal Procurement of Specified Items of Equipment, Materials and Supplies for Fiscal Year 2021 **71**
10. Ordinance 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) **(2nd Reading)** **75**
11. Resolution 2020-75, Approving the Interagency Services Agreement between the City of Banning and the City of Beaumont for the Purpose of Providing Coordinated Transit Services **81**
12. Resolution 2020-76, Awarding a Construction Agreement for IFB No. 20-017, Project No. 2020-01EL “Ivy and Stagecoach Substation Construction” to Electric Power Systems International, Inc. of Santa Ana, California, in an Amount Not to Exceed \$6,618,636.70 **85**

VII. PUBLIC HEARING(S):

None

VIII. ANNOUNCEMENTS AND REPORTS:

CITY COUNCIL COMMITTEE REPORTS

REPORT BY CITY ATTORNEY

REPORT BY CITY MANAGER

REPORTS OF OFFICERS

1. Resolution 2020-66, Calling for a Ballot Measure to Ask Voters Whether the Position of Banning City Clerk Should be Appointive **89**
(Staff Report: Doug Schulze, City Manager)

Recommendation: Adopt Resolution 2020-66, Submitting a Measure to the Votes of Banning at the November 3, 2020, General Municipal Election to Determine Whether the Office of City Clerk Should be Changed from Elected to Appointive.

2. First Reading of an Ordinance to Reduce the Cannabis Cultivation Tax from \$15 to \$5 per Square Foot of Canopy Space for the First Year a Business is in Operation, and \$10 per Square Foot of Canopy Space for Every Year Thereafter **93**
(Staff Report: Kevin Ennis, City Attorney)

Recommendation: Conduct first reading of an ordinance to amend Chapter 3.17 of the Banning Municipal Code to reduce the cannabis cultivation tax from \$15 per square foot of canopy space to \$5 per square foot of canopy space the first year that the business is in operation, and increasing the tax to \$10 per square foot every year thereafter that the business is in operation.

Mayor asks the City Clerk to read the title of Ordinance 1564

“Ordinance 1564, an Ordinance of the City of Banning, Amending Chapter 3.17 (Cannabis Commercial Cultivation, Manufacturing, and Laboratory Testing Tax) of Title 3 (Revenue and Finance) of the Banning Municipal Code to Decrease the Cannabis Cultivation Tax Rate, and Making a Determination Under CEQA Guidelines Section 15060(C)(3)”

Motion: **I move to waive further reading of Ordinance 1564**
(Requires a majority vote of the Council)

Motion: **I move that Ordinance 1564 pass its first reading**

3. Three Potential Ballot Measures to be Placed on the November 2020 Ballot by the City Council: 1) a Proposed Ordinance Authorizing the Imposition of a 10% Gross Receipts Tax on Cannabis Distributors, 2) a Proposed Ordinance to Retain the Cap on Cannabis Retailers, Which is Set at One (1) for Every 10,000 Residents, and 3) a Proposed Ordinance to Increase the Cap on Cannabis Retailers to One (1) for Every 3,000, 4,000 or 5,000 Residents (or Some Other Ratio), Depending on Council Direction **97**
(Staff Report: Kevin Ennis, City Attorney)

Recommendation: 1) Discuss the draft ballot measure to impose a municipal tax on cannabis distributors and provide direction to staff regarding any desired modifications to the ballot measure. 2) Discuss the two (2) draft ballot measures regarding the cap on cannabis retailers and provide direction to staff regarding any desired modifications to the two (2) ballot measures. 3) Review the draft resolutions calling for the proposed measures to be placed on the November 2020 ballot and submitted to the voters of the City at the general municipal election to be held on Tuesday, November 3, 2020.

IX. DISCUSSION ITEMS

None

X. ITEMS FOR FUTURE AGENDAS

New Items:

Pending Items:

1. Fee Suspension Update
2. Website Redesign
3. CNG Facility Update
4. New Energy Workshop
5. Permanent Homeless Solution

XI. ADJOURNMENT

Next Meeting – Tuesday, June 23, 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 three-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 sdela Fuente@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

05/26/2020
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
Kevin G. Ennis, City Attorney
Sonja De La Fuente, Deputy City Clerk
Jennifer Christensen, Administrative Services Director
Matthew Hamner, Police Chief
Tom Miller, Electric Utility Director
Adam Rush, Community Development Director
Art Vela, Public Works Director/City Engineer
Ralph Wright, Parks & Recreation Director
Laurie Sampson, Executive Assistant
Carla Young, Business Support Manager

I. CALL TO ORDER

A regular meeting of the Banning City Council was called to order by Mayor Andrade on May 26, 2020, at 5:06 p.m.

Pastor Ken Spicer of Hope Unlimited Church offered the invocation.

Councilmember Pingree led the audience in the Pledge of Allegiance.

II. AGENDA APPROVAL

A motion was made by Councilmember Welch, seconded by Councilmember Pingree, to approve the agenda. Electronic vote was taken as follows:

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

III. PRESENTATION(S)

Mayor's Special Recognitions

The Mayor and City Council recognized Stacy Bouslog, Customer Service Manager, City of Banning, for making Banning a better place to work, live, and play, and the Banning High School Varsity Boys Basketball Team for being the 2020 CIF Champions.

IV. REPORT ON CLOSED SESSION

City Attorney Ennis reported that City Council held a special meeting beginning at 4:00 p.m. today. The items discussed were as follows:

1. **CONFERENCE WITH LEGAL COUNCIL – ANTICIPATED LITIGATION**

Significant Exposure to Litigation Pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9 (One Case)

No final or reportable action.

2. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8

Property: 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

Direction was given to the City's negotiator, with no final or reportable action.

3. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8

Property: 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

Direction was given to the City's negotiator, with no final or reportable action.

4. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Properties and Owners/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – Southeast corner of Ramsey Street and Hathaway Street, APN 532-140-005 – Frank J. Burgess; and Northeast corner of Ramsey Street and Hathaway Street, APN 532-120-020 – Frank J. Burgess and Lorna D. Burgess, Trustees
City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements
Direction was given to the City's negotiator, with no final or reportable action.
5. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property and Owners/Negotiating Parties: Real Property located in the vicinity of Ramsey and Hathaway – 1483 E. Ramsey St, APN 541- 170-019 – Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust
City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements
Direction was given to the City's negotiator, with no final or reportable action.
6. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property and Owner/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – 1573 E. Ramsey St, APN 541-170-021 – Jen H. Huang
City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements
Direction was given to the City's negotiator, with no final or reportable action.

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

PUBLIC COMMENT(S)

Mayor Andrade opened public comment for items not on the Agenda.

Jerry Westholder thanked the City Council for voting against more than three pot shops in the City.

Paul Perkins recommended improving upon justifications from staff for purchases.

Frank Burgess expressed his difficulty with hearing within the Council Chamber. He also requested less distance between seats in the Council Chamber so more people can fit. Finally, he indicated that he and his family donated some land on the north side of Ramsey Street in 1995 and hopes the project will finally be completed.

Inge Schuler encouraged the City to follow the Brown Act, as she was not aware of the closed session held two weeks ago. Also, she advised she has no objection with dealing with homeless but would like to know how much the City has paid toward the homeless village. Finally, she expressed concern with Councilmember Welch's sidebars during public comment.

Karen Amirson thanked Mayor Pro Tem Wallace for her update on the Ramsey Street Village at the last meeting. She expressed concern with Councilmember Welch's comments during her public comment time at the last meeting and clarified that she is concerned with the homeless situation, not critical.

Bill Hobbs commended the City Council for working together and encouraged the community to support local businesses. He also advised there is a homeless encampment on the south side of I-10.

Seeing no further comments, the Mayor closed public comment.

CORRESPONDENCE

None

APPOINTMENT(S)

None

VI. CONSENT ITEMS

1. Minutes – May 12, 2020, Regular Meeting
2. Minutes – May 12, 2020, Special Meeting (Closed Session)
3. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of April 2020
4. Receive and File Cash, Investments and Reserve Report for the Month of April 2020
5. Receive and File Public Works Capital Improvement Project Tracking List
6. Police Statistics for the Month of April 2020
7. Fire Statistics for the Month of April 2020
8. Receive and File Contracts Approved Under the City Manager's Signature Authority for the Month of April 2020
9. Resolution 2020-62, Accepting Funding from the State of California 911 Emergency Communications Branch in an Amount Not to Exceed \$287,000
10. Resolution 2020-63, Approving the License Agreement with Girl Scouts of San Geronio Council for Use of the Girl Scout House in Repplier Park
11. Resolution 2020-64, Authorizing the Purchase of One Bucket Truck, One Dump Truck, and One Wire Puller Trailer for the Electric Utility
12. Amendment No. 1 to the Contract Agreement with Artistic Maintenance, Inc. of Lake Forest, California, in an Amount Not to Exceed \$79,975 and Extending the Term of the Agreement through June 30, 2021 for the Operation and Maintenance of Landscape Maintenance District No. 1
13. Award Landscape Maintenance Agreement for City Properties to Artistic Maintenance, Inc. of Lake Forest, California, in the Amount of \$59,760 for Fiscal Year 2020/21 with the Option to Review for Four Additional Single Year Periods
14. Award Contract to L.O. Lynch Quality Wells and Pumps, Inc. for the Well Redevelopment and Repairs Project in the Amount of \$519,568; Establish a 10% Contingency for a Total Project Budget of \$571,525; and Reject all Other Bids
15. Award Custodial Services Agreement to Dynamic Building Maintenance of Riverside, California for Custodial Maintenance of Municipal Facilities in the Amount of \$77,432 for Fiscal Year 2020/2021 with the Option to Review for Four Additional Years

Public Comments

The Mayor opened public comment.

Inge Schuler spoke regarding Consent Item 2 and asked that the May 12th closed session minutes be updated to reflect that the correct end time of 4:55 (not 5:55). The Deputy City Clerk will amend the final version to reflect the correct end time.

Jerry Westholder asked for a presentation of the statistics in Consent Items 6 and 7. Regarding Consent Item 9, he asked what the funding would be used for. Finally, in regard to Consent Item 11, he asked why the City needs another dump truck.

Frank Burgess spoke regarding Consent Item 1 and advised he sent an email on May 8th and he would like it added to the May 12th regular meeting minutes. The Deputy City Clerk will add the email to the final version of the minutes. Regarding Consent Item 3, he requested copies of checks. Regarding Consent Item 7, he recommended the City have its own fire department. Regarding Consent Item 11, he questioned the need for trucks. In regard to Consent Items 12 and 13, he indicating his dissatisfaction with landscape maintenance in the City.

Paul Perkins spoke regarding Consent Item 11 and recommended justification for equipment purchase. He also spoke regarding Consent Item 13 and asked if the Armory would be included in the landscape maintenance contract.

John Hagen spoke regarding Consent Item 12 indicating his dissatisfaction with current landscape maintenance services.

Seeing no further comments, the Mayor closed public comment.

In response to questions regarding Consent Item 11, Jason Smith, Electric Operations Manager explained why the Electric Utility needs its own equipment and provided the Deputy City Clerk a copy of the Electric Department's Heavy-Duty Equipment Replacement presentation from 2019 (Attachment 1) to include with the minutes for reference.

There was some discussion held among Council and staff.

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Happe to approve Consent Items 1-15. Electronic vote was taken as follows:

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

Action: Approved Consent Items 1-15.

VII. PUBLIC HEARING(S)

1. Resolution 2020-39, Approving the Emergency Billing Fee

Administrative Services Director, Jennifer Christensen presented the staff report for this item.

The Mayor opened the Public Hearing.

John Hagen clarified that if the insurance didn't pay the fee, the resident would not be made to pay the fee.

Paul Perkins asked who would be paying the fee and if it was a private ambulance company.

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

The City Manager explained that the ambulance fee is a private service. This fee is related to CalFire only.

A motion was made by Mayor Pro Tem Wallace seconded by Councilmember Happe to 1) adopt Resolution 2020-39 approving the emergency medical services billing program fee schedule and related write-off policy; and 2) approve a contract with Wittman Enterprises LLC to administer the emergency medical services billing program in an amount not to exceed \$60,000. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2020-39 and Approved Contract with Wittman Enterprises LLC in an Amount Not to Exceed \$60,000.

2. 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)

Community Development Director Adam Rush provided a staff report and presentation (Attachment 2) on this item.

The Mayor opened the Public Hearing.

Paul Perkins recommended businesses within Banning city limits get a discount, not just Chamber of Commerce members. He provided some clarification regarding how the advertisement slots work.

Alex Garcia, applicant/developer, advised that the City of Banning will get \$96,000 per year in free advertisement with this agreement and that he is open to a 20-30-year agreement. He mentioned that he also plans on bringing rock concerts to the City of Banning.

Laura Leindecker advised that this started when she was on the Board for the Chamber of Commerce and it was to promote business in the City and to promote Banning.

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

There was some discussion held among Council, Mr. Garcia, and Community Development Director Rush to provide further clarification.

A motion was made by Councilmember Welch seconded by Councilmember Happe to waive further reading of Ordinance 1562. Electronic vote was taken as follows:

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

Action: Waived further reading of Ordinance 1562.

A motion was made by Councilmember Pingree seconded by Mayor Pro Tem Wallace that Ordinance 1562 pass its first reading with the amendment to the agreement making the initial term 30 years plus an additional 10-year automatic extension, unless the parties agree otherwise. Electronic vote was taken as follows:

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

Action: Ordinance 1562 passed its first reading as amended.

The Mayor recessed the meeting at 6:58 P.M. and reconvened at 7:14 P.M.

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Councilmember Pingree had nothing to report.

Councilmember Welch advised that Friday was the eighth week that the Chamber of Commerce along with several community volunteers did the drive through food distribution program. There were approximately 350 cars and 50 walk-up that participated. He commended the program.

Councilmember Happe had nothing to report.

Mayor Pro Tem Wallace reported that the food distribution program would continue on the fourth Saturday of every month at 8:00 a.m. at the Community Center. She also reported that this Friday there would be an 8th Grade Promotion Drive By. Riverside County Action Partnership will meet via Zoom on June 18th. They will be coming to the Community Center to help residents with assistance in paying their electric and gas bills.

Mayor Andrade thanked all the volunteers for the food drive. She reported feeding approximately 600-700 people with the food distribution and deliveries each week. She advised the Chamber would be holding a Chamber Mixer and a volunteer appreciation event sometime in June. On Thursday she will be meeting with Dr. Natasha Baker, Banning Unified School District Superintendent, and will be recommending a graduation program. In the May 22nd issue of the Record Gazette the Top 10 Seniors from Banning High School were featured (Attachment 3). The Sunrise Banning Breakfast will be on June 17th from 7:00 a.m. until 8:30 a.m. at The Haven. The guest speaker will be Wall Street Journal and Business Week best-selling Author David Finkle. The Boys & Girls Club is open for all children of essential workers.

REPORT BY CITY ATTORNEY

City Attorney Kevin Ennis had nothing to report.

REPORT BY CITY MANAGER

City Manager Doug Schulze advised the Emergency Services Grant application was submitted today. The City requested \$174,000. In response to questions regarding operating costs of the Ramsey Street Village, he advised utilities are

approximately \$15,000 annually. The police officer assigned to the homeless population is \$44,000 annually, but that would be the case even if there wasn't a village. The net total identified is (shelters, meals, shower room, restroom, laundry, etc.) \$485,000 annually. The City has received \$170,000 in CDBG funds and currently seeking \$174,000 through the grant. If the grant funding is not received, the additional items will not be purchased. He will email the Council with this information and post online. Finally, he encouraged any community members with questions to contact him.

REPORTS OF OFFICERS

1. Resolution 2020-67, Amending Manual of Procedural Guidelines

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

Public Comment

The Mayor opened Public Comment.

Frank Burgess encouraged the Council to listen to those that provide public comment and asked why the Council never answers his questions.

Seeing no further comments, the Mayor closed Public Comment.

The City Attorney explained the public comment process and that it is traditional to take all the public comments first. Once all public comment has been received then the Council may respond at that point or when it is time for their report. It is not traditional that each commenter gets a response immediately following their comment or question.

A motion was made by Councilmember Happe and seconded by Mayor Pro Tem Wallace, to adopt Resolution 2020-67. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2020-67

2. Resolution 2020-68, Approving the Agreement for the Purchase and Sale and Escrow Instructions Between the City of Banning and Shi Pingdong, for Real Property located at 447 E. Ramsey Street (APN: 541-150-004) and Making a Finding of Exemption Under CEQA in Connection Therewith

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

Public Comment

The Mayor opened Public Comment.

Paul Perkins spoke against using Electric funds to purchase property.

Frank Burgess asked how the money would be paid back to the Electric fund, if the Utility Committee approved this and what Electric would be doing with the property if they must repossess it from the City.

Jerry Westholder expressed concern with using Electric funds to purchase property and requested a reason for such purchase.

Seeing no further comments, the Mayor closed Public Comment.

A motion was made by Councilmember Welch, seconded by Mayor Andrade, to continue this item to the July 14th City Council Meeting. Electronic vote was taken as follows:

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

Action: Continued to July 14, 2020 Regular City Council Meeting

3. Resolution 2020-69, Urging County of Riverside and Governor's Office to Immediately Allow All Retail Stores and Restaurants in the City of Banning to Re-Open

Mayor Andrade advised that she requested this item brought forward. However, the Governor has already moved forward with allowing businesses and churches to open.

Public Comment

The Mayor opened Public Comment.

Jerry Westholder advised that he received a CDC report indicating that a lot of the information previously provided has been changed and that he believes the City should open. However, expressed concern with using the term "sanctuary".

Frank Burgess spoke in support of adopting Resolution 2020-69 and opening all business in Banning.

John Hagen expressed concern with the term "sanctuary" used in Resolution 2020-69B.

Robert Ybarra expressed his appreciation of the Council supporting opening businesses.

Dorothy Famaletti McLean advised that she he has trouble hearing in the Council Chamber, but can hear at home. She also noted that the City of Banning should not be a sanctuary city for all businesses, as there are some businesses not wanted in the City.

Seeing no further comments, the Mayor closed Public Comment.

A motion was made by Councilmember Pingree, seconded by Mayor Pro Tem Wallace, to table this item. Electronic vote was taken as follows:

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

Action: **Item tabled.**

IX. DISCUSSION ITEM

1. Continued Service of Inge Schuler on Planning Commission

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

There was discussion held regarding Planning Commissioner terms.

Councilmember Happe explained that he asked for this item to be placed on the agenda for discussion. He shared his concern with a situation that occurred last year where Planning Commissioner Schuler voted in support of an apartment complex then came to a City Council meeting and spoke against the project, causing confusion as Council takes recommendations from the Planning Commission.

Public Comment

The Mayor opened Public Comment.

Jerry Westholder spoke in favor of Commissioner Schuler remaining on the Planning Commission.

John Hagen spoke in favor of Commissioner Schuler remaining on the Planning Commission.

Dorothy Famaletti McLean spoke in favor of Commissioner Schuler remaining on the Planning Commission.

Paul Perkins spoke in favor of Commissioner Schuler remaining on the Planning Commission.

Frank Burgess spoke in favor of Commissioner Schuler remaining on the Planning Commission.

Seeing no further comments, the Mayor closed Public Comment.

There was discussion held among the Council.

Councilmember Happe recommended recognizing all the Planning Commissioners and commending them for their service.

2. Consideration of a Resolution Calling for a Ballot Measure to Ask Voters Whether the Positions of Banning City Clerk and City Treasurer Should be Elective or Appointive

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

Public Comment

John Hagen spoke against a ballot measure for both positions.

Frank Burgess spoke against a ballot measure for both positions.

Jerry Westholder spoke against a ballot measure for both positions.

Marie Calderon advised she requested the City Clerk position being placed on the ballot to be appointive, but understands if now is not the time.

John McQuown submitted a letter (Attachment 5) against a ballot measure for the City Treasurer position.

Seeing no further comments, the Mayor closed Public Comment.

There was discussion among the Council regarding the item.

There was a consensus (5-0) of the Council that the City Treasurer position remain an elected position.

There was additional discussion held among the City Council.

A motion was made by Mayor Andrade, seconded by Councilmember Happe, to direct staff to bring back a resolution for consideration regarding a ballot measure to determine if the City Clerk position shall be appointive. Electronic vote was taken as follows:

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

Action: **Staff directed to prepare a resolution regarding a ballot measure to determine if the City Clerk position shall be appointive.**

X. ITEMS FOR FUTURE AGENDAS

None

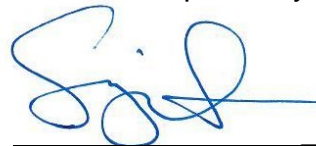
XI. ADJOURNMENT

There was a moment of silence held in honor of Memorial Day and in remembrance of those who have lost their lives.

By consensus, the meeting was adjourned at 9:08 P.M.

Next Meeting: June 9, 2020, 5:00 p.m.

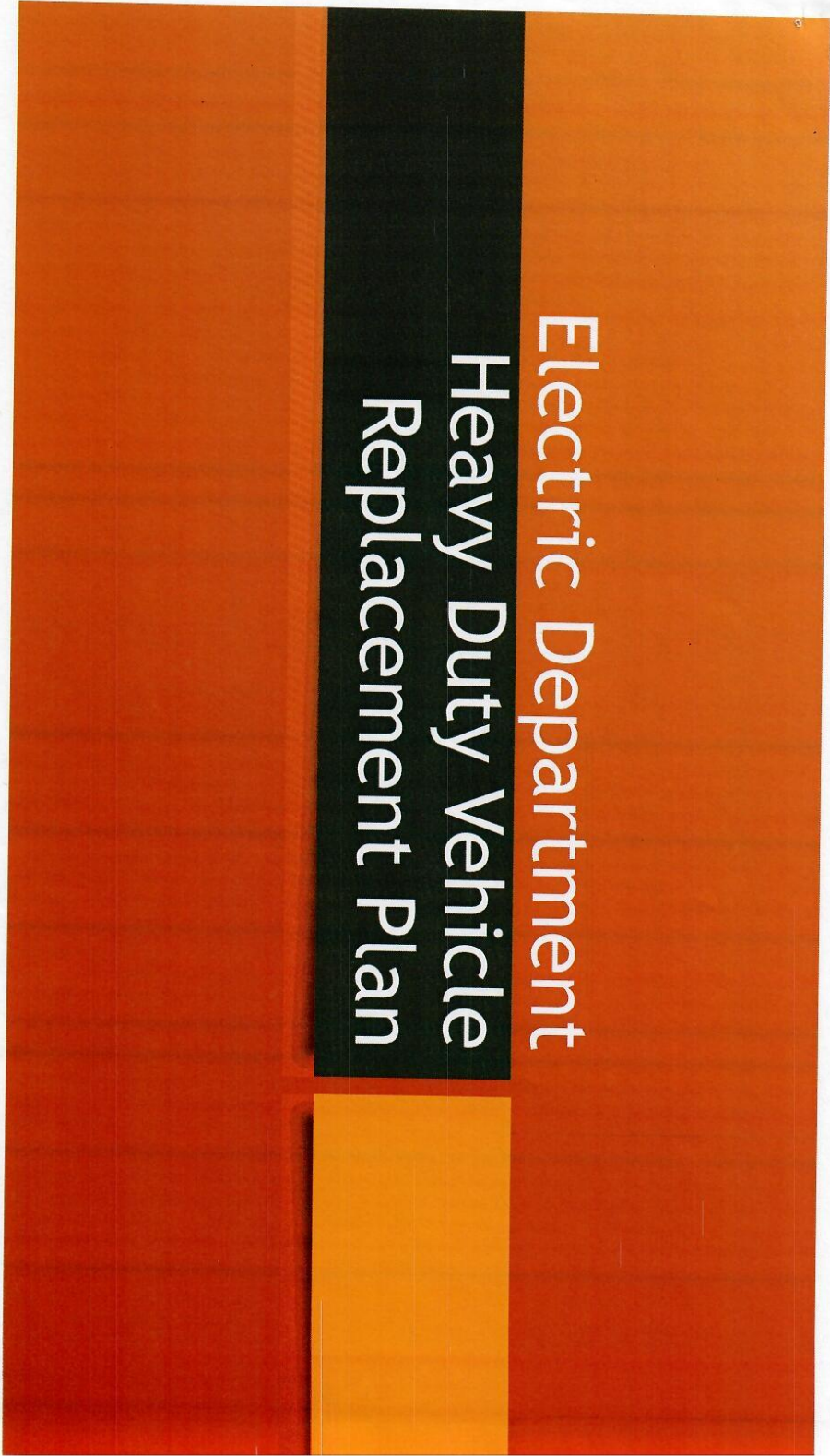
Minutes Prepared by:



Sonja De La Fuente, Deputy City Clerk

The entire discussion of this meeting may be viewed here:
<https://banninglive.viebit.com/player.php?hash=xAbAQAI3M84g> and
<https://banninglive.viebit.com/player.php?hash=JBsEDUgEtJxN>. Any related
documents maybe viewed here:
<https://banningca.gov/ArchiveCenter/ViewFile/Item/2303> or by purchasing a CD or
DVD in the amount of \$7.00 at Banning City Hall located at 99 E. Ramsey Street.

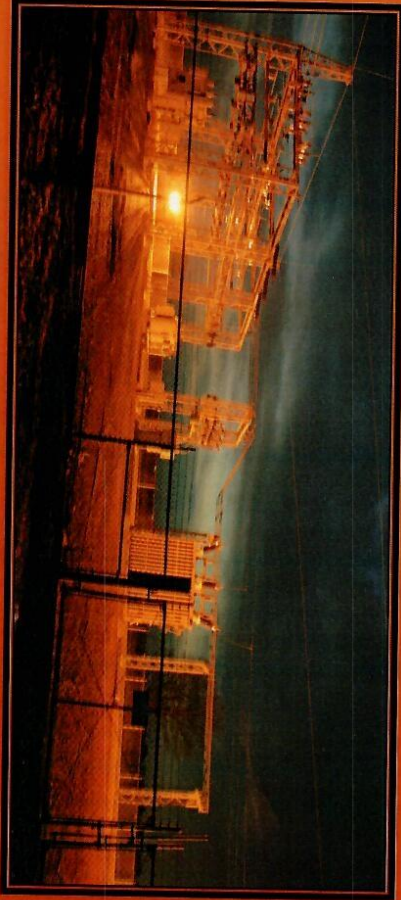
ATTACHMENT 1

A graphic consisting of a large orange rectangle. Inside this rectangle, there is a horizontal black bar. The text "Electric Department" is written in white, sans-serif font above the black bar. The text "Heavy Duty Vehicle Replacement Plan" is written in white, sans-serif font inside the black bar.

Electric Department Heavy Duty Vehicle Replacement Plan

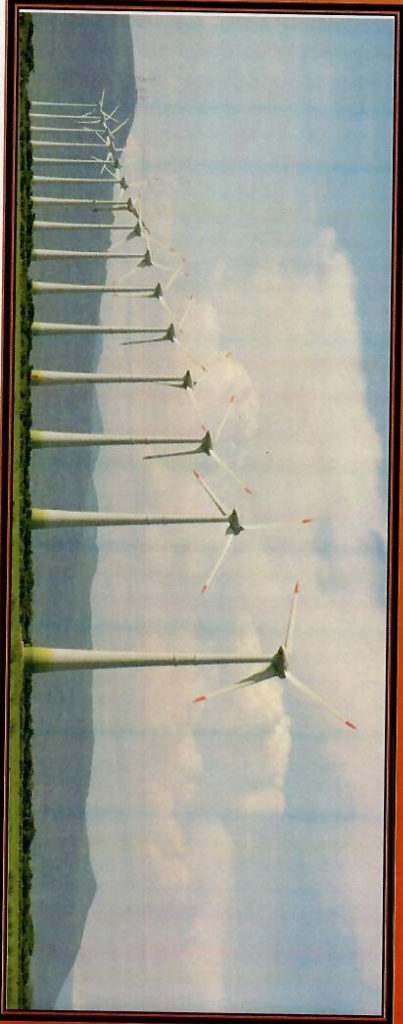
Purpose:

- Efficiently replace utility vehicles and equipment in order to safely and effectively maintain electrical distribution infrastructure while operating within SCAQMD requirements.



Regulations

- SCAQMD/CARB
- Rule 1196
- B.A.C.T. (five units with PM filters)

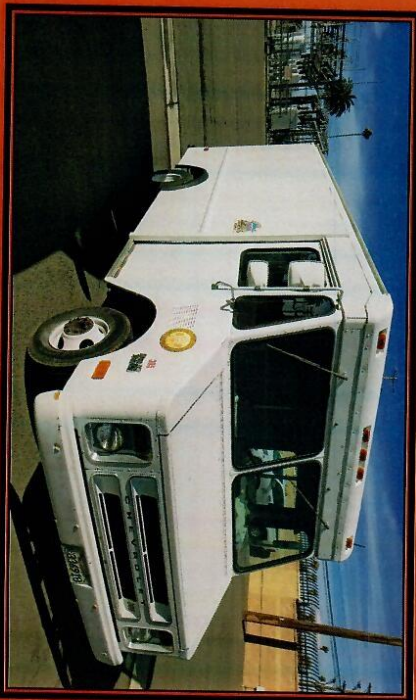
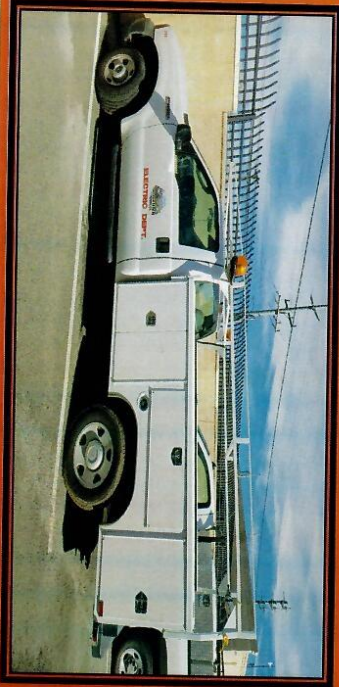


Current Fleet and Crew Composition



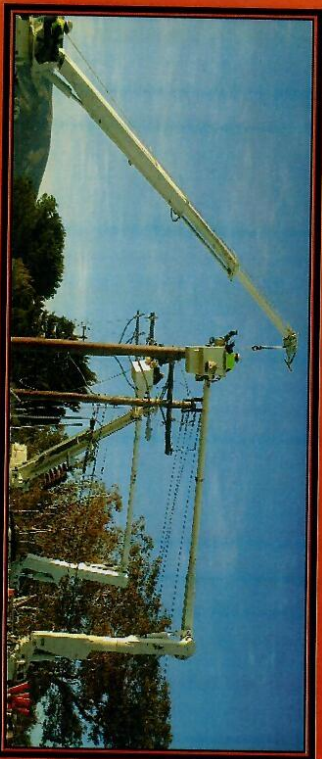
“Actual” current Fleet and Crew Composition

- Three service planners
 - Two pick-up trucks. (2006 Chevy, 2010 Chevy)
- One Substation Technician and one Meter Test Technician
 - Two pick-up trucks. (2009 Chevy, 2009 Ford)



Current Fleet and Crew Composition cont.

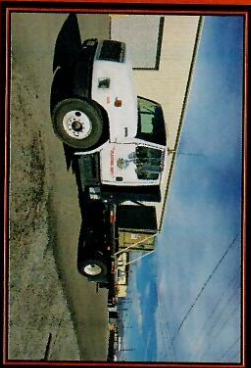
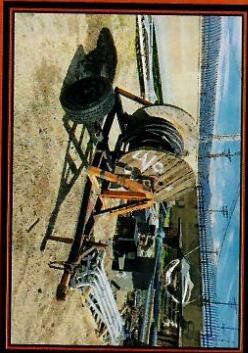
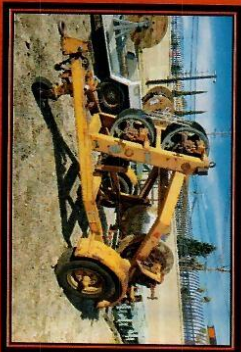
- Two Heavy Crews (Supervisor, Four Powerline Techs)
 - (2) Utility Crew Pick-up Trucks (2015 Chevys)
 - (2) 50' Bucket Trucks, (1994 GMC, 1998 Freightliner)
 - (1) 55' Bucket Truck 2007 International)
 - 2 55' Digger/ Derrick Trucks (2004 International, 2006 International)
- One Service Crew (Supervisor, One Powerline Tech or App.)
 - 1 Utility Crew Pick-up Truck (2003 Ford)
 - 1 Bucket Truck (2003 Freightliner)



Current Fleet and Crew Composition cont.

- Miscellaneous equipment:

- 1 Flatbed Heavy Duty Truck (1997 Freightliner)
- 1 Puller Trailer (1990 Sherman Reilly)
- 1 Air Compressor (1985 Smith)
- 1 Underground Van (1991 Chevy)
- 1 Traffic Control Trailer (2014 Arrow Board)
- 1 Pole Trailer (2004 Sauber)
- 6 Wire Reel Trailers (2001 Homemade, 1994 Fleming, 2001 Sauber, 1965 Royal, 1945 Homemade, 1990 Fleming)
- 1 Hot Stick Trailer (1985 Kearney)
- 1 Forklift (1998 Caterpillar)



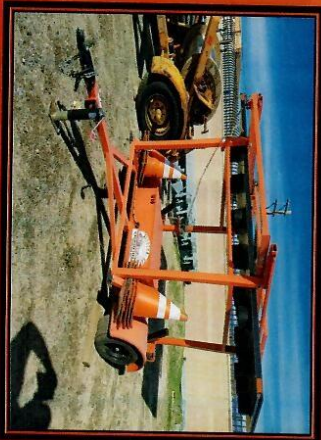
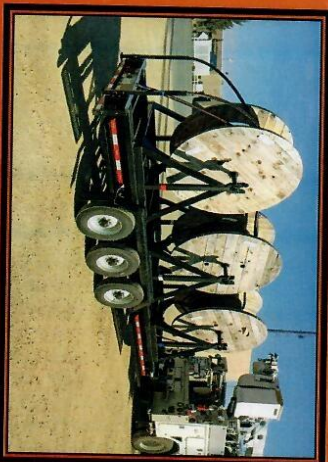
Optimal Crew and Fleet Composition

- 3 Heavy Crews (1 Supervisor, Three Powerline Techs)
 - 3 Utility Crew Pick-up Trucks
 - 3 60' Bucket Trucks
 - 3 60' Digger/ Derricks
 - 1 Dump Truck
 - 1 Backhoe/ Trailer combo
- 1 Service Crew (1 Supervisor, 1 Powerline Tech)
 - 1 Utility Crew Pick-up
 - 1 40' Bucket Truck

Optimal Crew and Fleet Composition cont.

- Equipment:

- 1 Flatbed Heavy Duty Truck
- 1 Puller Trailer
- 1 Air Compressor
- 2 Pole Trailers
- 6 Wire Reel Trailers
- 1 U.G. Van
- 2 Traffic Control Trailers
- 1 Forklift
- 1 Backyard Machine



Replacement Plan

- Pick-up(Light Duty) Trucks will be part of the City's new lease program with Enterprise.
- Bucket Trucks (8-10 years)
- Digger Derrick Trucks (10-15 years)
- Equipment (TBD from use and depreciation)



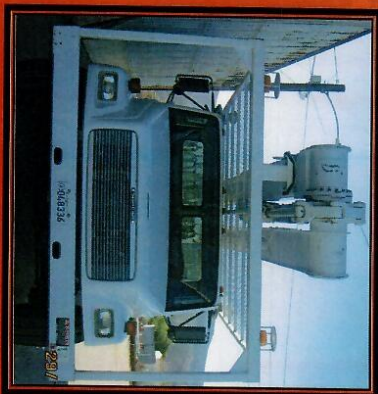
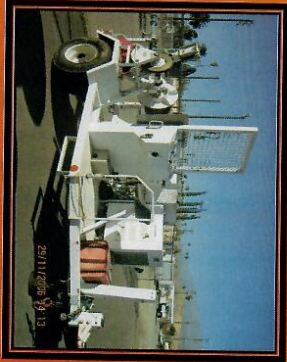
Replacement Plan cont.

- 2018/2019 Fiscal Yr.
- 1 40' Service Bucket Truck
- 1 60' Bucket Truck



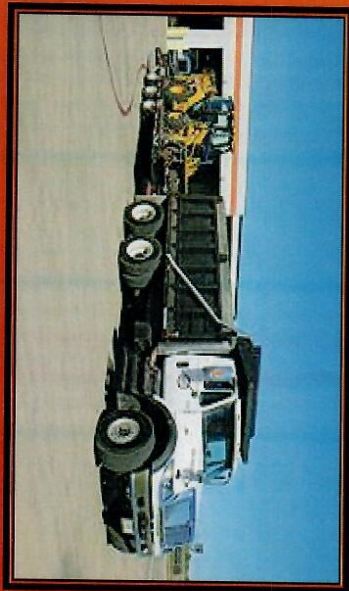
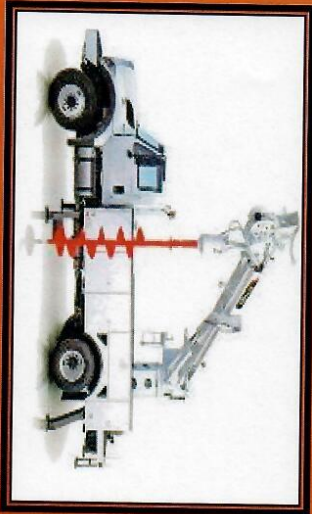
Replacement Plan cont.

- 2019/2020 Fiscal Yr.
 - 1 60' Bucket Truck
 - 1 O.H./U.G. Combo Wire Pulver Trailer.
 - 1 Flatbed
 - 1 Three Reel Heavy Duty Wire Trailer
 - 1 U.G. Utility Van



Replacement Plan cont.

- 2020/2021 Fiscal Yr.
- 1 Digger/ Derrick
- Add 1 Dump Truck
- Add 1 Backhoe/Trailer Combo



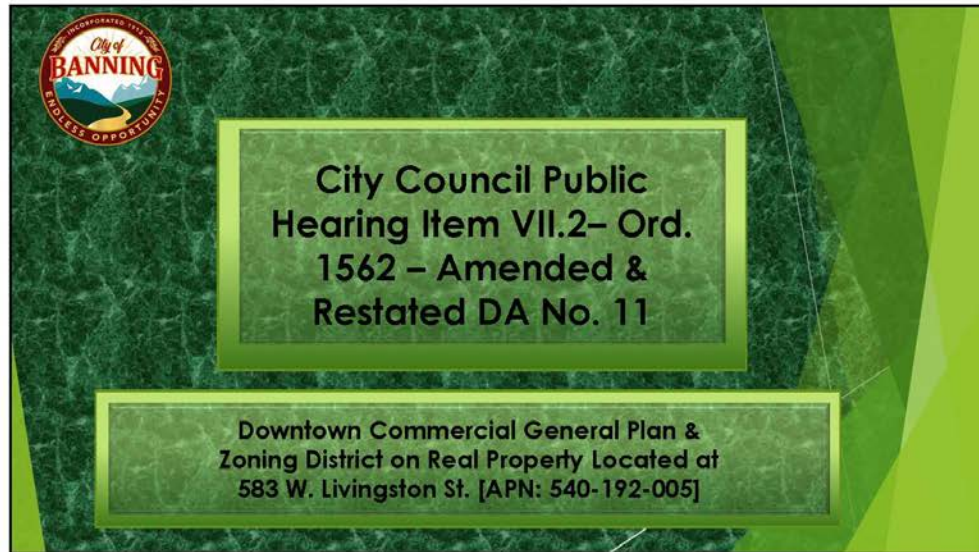
Fiscal Impact

- 2018/2019
 - Approximately \$410,000.00
- 2019/2020
 - Approximately \$400,000.00
- 2020/2021
 - Approximately \$450,000.00

Conclusion

- Goals:
 - Reach optimum operating capabilities
 - 3 (4) Man Heavy Crews
 - 1 Crew Pick-up
 - 1 60' Bucket Truck
 - 1 60' Digger/Derrick Truck
 - 1 (2) Man Service Crew
 - 1 Crew Pick-up
 - 1 40' Bucket Truck
 - Develop a sustainable Electric Utility Fleet modernization plan
 - Secure proper resources and equipment to safely and proficiently maintain electrical infrastructure.
 - Operate Electric fleet within SCAQMD/CARB requirements.

ATTACHMENT 2

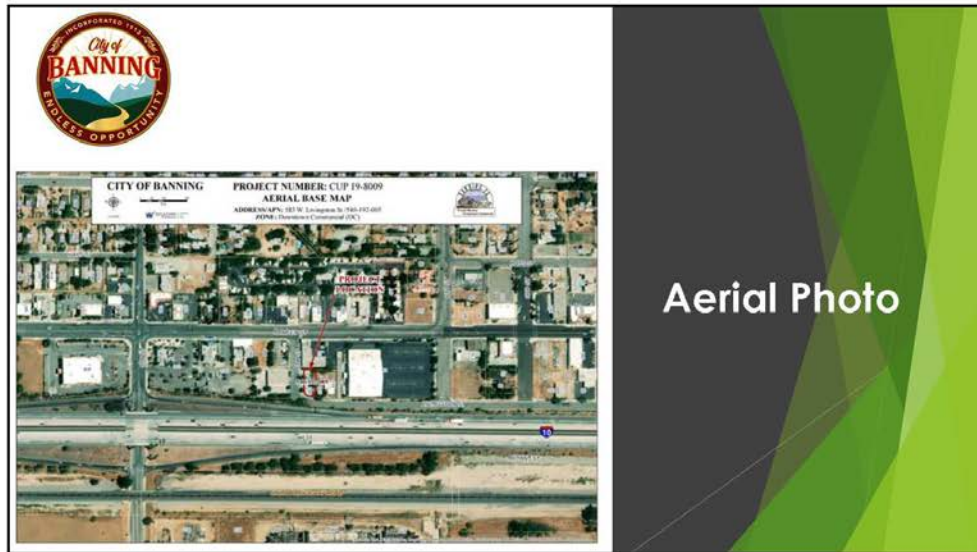


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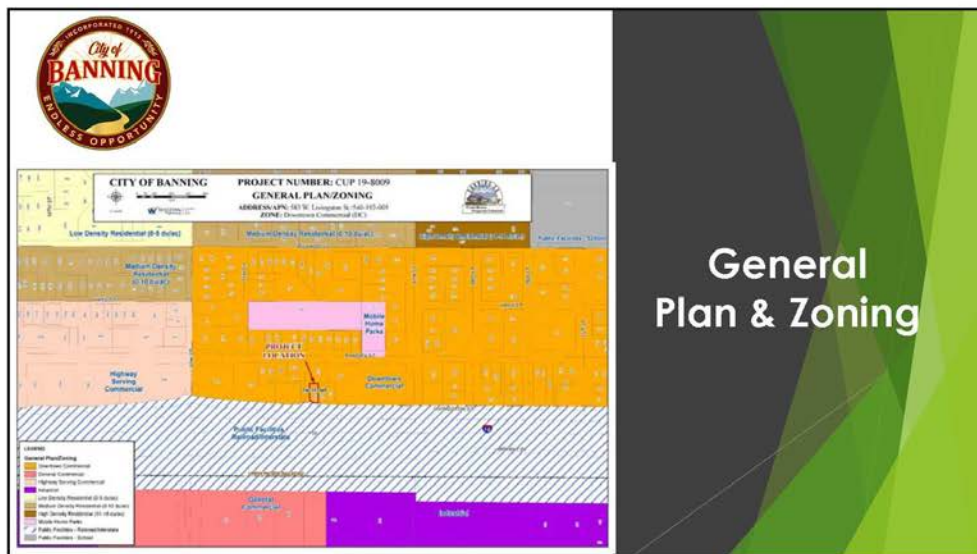


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3



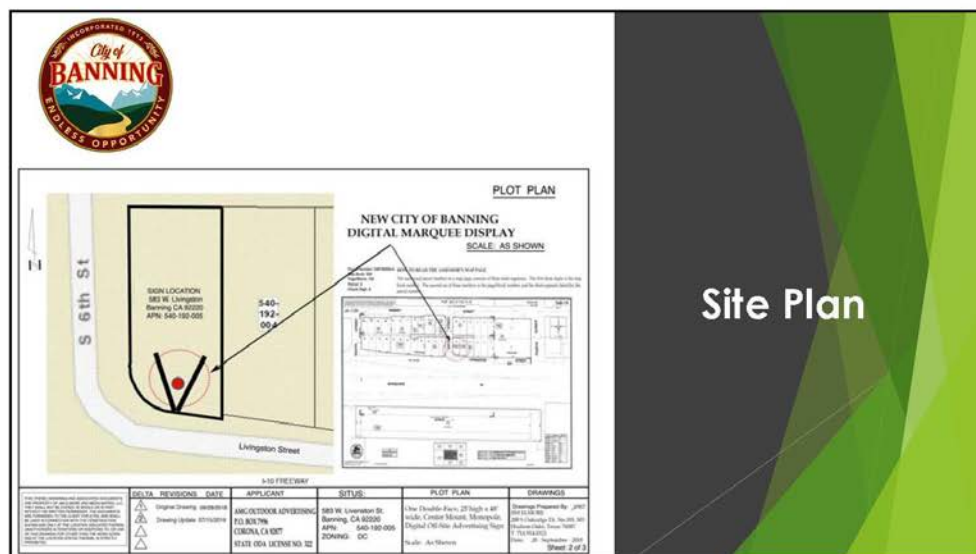
4

2



Development Opportunities

5




Site Plan

6

3






- ▶ The City Council considered an Amendment to the Development Agreement at the May 12th meeting.
- ▶ The item was continued for staff to conduct additional research and also for the sign owner to reconsider their offer.
- ▶ The Council requested additional justification for the removal of a \$50,000 annual payment to City.

Background

9



- ▶ AMG requested a Development Agreement for the construction and operation of an electronic message center at 583 W. Livingston St., near the Interstate 10 freeway.
- ▶ An electronic message center (“digital billboard”). 80-feet in height and 1,200 s.f. of display (25’ x 48’).
- ▶ Original Development Agreement (DA) would provide a \$50,000 per annum payment to City.

Background

10

5



The Council's deliberations, during the May 12th meeting, is summarized as follows:

- Do the ***newly proposed*** discounted advertising provisions qualify as a "public benefits".
- Broadened access of advertising discounts.
- Clarification on the advertising restrictions
- Additional justification for removing the annual payment of \$50,000 to City.
- A comparative analysis of other Cities and their individual billboard agreements.

Background

11




- ▶ These new public benefit provisions are summarized as follows:

- Term of agreement is now 20-years.
- The City is allowed one advertisement, on one side for an 8-second advertising space per rotation interval.
- Chamber businesses are allowed one advertisement, on one side, for an 8-second ad, per rotation interval, at 50% of the full rate.
- AMG will be restricted from advertising content of a graphic or suggestive nature.
- AMG is allowed to advertise alcohol, tobacco, and cannabis.

Justification

12

6





Additional Analysis (city-by-city comparison):

City	# Billboard	Annual Payment to City	Additional Incentives	Term of Agreement	Advertising Restrictions	Owner
Rialto	3	\$90,000/yr. + 25% GAR	3 City Ads/Year	20yr (w/ 10yr. opt.)	No Drug or Sexually Oriented content	Lamar
Corona	3	\$90,000/yr.	1 City Ad per min.	30 years	No drug, sexually oriented content, alcohol, or tobacco	Lamar/General Outdoor Advertising (GOA)
Rancho Cucamonga	1	\$40,000/yr. OR 12% GAR	One (1) - 6 sec. City Ad per min.	In perpetuity	No drug, sexually oriented content, alcohol, or tobacco	GOA
Eastvale	1	\$50,000/yr.	1 City Ad per min.	20 years	No drug, sexually oriented content, alcohol, or tobacco	GOA
Colton	1	\$70,000/yr. + 30% GAR	Renegotiation Clause	20 years (w/ 2-5yr. opts.)	No drug, sexually oriented content, alcohol, or tobacco	


Background

13

RECOMMENDED ACTION:

That the City Council take the following actions:



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").

City Council Recommended Action

14

7

ATTACHMENT 3

Accolades

Banning High School Top 10 seniors

Banning High School announces its top 10 ranked seniors based on grade point averages, as reflected at the start of the semester prior to schools closing due to the coronavirus quarantine.



Rank 1
Jazmine Colon

Valedictorian Jazmine Colon has a grade point average of 4.789, and will enroll at the University of California, Berkeley to study economics and political science with an emphasis in public law. She participated in cheer, soccer and water polo; was a member of the National Honor Society and Link Crew. She served as president of AVID, and was president of the campus's High School Democrats of America, which she founded.



Rank 2
Kenya Nunez

Salutatorian Kenya Nunez attained a 4.635 grade point average, and will attend Claremont McKenna College to study a combined major of politics, philosophy and economics while minoring in data science. During high school she participated in the Solar Boat program and ASB. She was captain of the cross country and track teams, and president of the Key Club. She was the high school's student representative at school board meetings.



Rank 3
Leslie Paz

Leslie Paz will start out studying history at Claremont McKenna College, but indicates that her field of study could change. She was involved in Key Club, Upward Bound, National Honor Society and Link Crew. She was treasurer for AVID and for the Spanish Club.



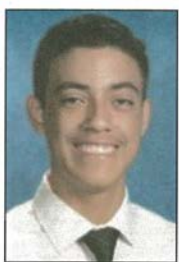
Rank 4
Briza Martinez

Briza Martinez will study health, medicine and society at the University of Redlands. She was the senior class treasurer, and served as secretary of Key Club. She was the publicist for the High School Democrats of America. She was involved in the National Honor Society, Solar Boat, Link Crew and Upward Bound.



Rank 5
Aizel Mejia Munoz

Aizel Mejia Munoz was active in Key Club, AVID, Link Crew and the Solar Boat program. She will study bioengineering at the University of California, Riverside.



Rank 6

Jesus Vasquez

Jesus Vasquez ran cross country and played volleyball. He was involved in AVID, Key Club, Asian American Club, Spanish Club, Interact, and the National Honor Society. He has been accepted to the University of California, Irvine, where he is considering studying business administration or engineering.



Rank 7

Rania Saber

Senior Class President Rania Saber will study computer science at the University of California, Riverside. She has served as vice president of Key Club, treasurer of the National Honor Society, and was involved in Spanish Club, Asian American Club, tennis and Link Crew.



Rank 8

Christopher Gonzalez

Christopher Gonzalez will study mathematics at Claremont McKenna College. During high school he played volleyball, played soccer and ran cross country. He was involved in Key Club, Spanish Club, Link Crew, and the National Honor Society.



Rank 9

Orion Flynn

Senior Class Vice President Orion Flynn has been accepted to Marshall College at the University of California, San Diego to study aerospace engineering. He served as vice president of the golf club and the National Honor Society. He was involved in the Solar Boat program, Asian American Club, Key Club, Athletic Club, water polo, and football.



Rank 10

Giselle Farfan Magana

Rounding out the top 10 with a grade point average of 4.25, Giselle Farfan Magana will spend her post-high school career serving as a Jehovah's Witness. During high school she was a yearbook editor and secretary of the Spanish Club. She played cello with the school's orchestra, and was a member of the The Herd theater club.

Lavender Festival is cancelled, but visitors can still enjoy the fields

ARTS & ENTERTAINMENT

ATTACHMENT 4

RESOLUTION NO. 2020-69- A (Revised)**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
URGING THE COUNTY OF RIVERSIDE AND THE GOVERNOR'S
OFFICE TO IMMEDIATELY ALLOW MORE BUSINESSES IN THE CITY
OF BANNING TO REOPEN WITH APPROPRIATE SAFETY
PRECAUTIONS AND FOR THE COUNTY AND THE GOVERNOR TO
ALLOW BANNING TO PROCEED INTO STAGE 3 OF THE STATE'S
REOPENING PLAN**

WHEREAS, the City of Banning recognizes that the Nation's Declaration of Independence and the Constitution of the United States recognize and enshrine certain rights of all Americans, including those fundamental liberty interests set forth in the Fourteenth Amendment that prohibits any state from depriving any person of life, liberty, or property, without due process of law; and

WHEREAS, each of the City of Banning's duly elected or appointed public servants have sworn to defend and uphold the United States Constitution and the Constitution of the State of California; and

WHEREAS, at the same time, the City of Banning recognizes that on March 4, 2020, the Governor of the State of California declared a state of emergency to address the COVID-19 pandemic and to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for the broader spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments to prevent the spread of and otherwise address the effects of COVID-19; and

WHEREAS, on March 17, 2020, the City Manager of the City of Banning, as the Director of Emergency Services, proclaimed the existence of a local emergency in response to the COVID-19 pandemic; and

WHEREAS, on March 24, 2020, the City Council of the City of Banning ratified the Director of Emergency Services' proclamation of the existence of a local emergency in response to the COVID-19 pandemic; and

WHEREAS, it has now been more than two months since these emergency declarations have been issued and Banning has not encountered a wide-spread outbreak of COVID-19 infections or hospitalizations in Banning; and

WHEREAS, as of May 20, 2020, there have only been 88 confirmed Coronavirus cases in Banning, which is less than 0.3% of the City's population; and

WHEREAS, as of May 20, 2020, there have only been 2 deaths caused by Coronavirus in Banning, which is less than 0.006% of the City's population; and

Resolution 2020-69

WHEREAS, people and businesses of the City of Banning have taken the necessary steps to slow the pandemic, and it is now important that we move quickly to address the urgent needs of businesses to reopen; and

WHEREAS, the impact of the Governor's Stay at Home Order and related State Orders and guidance (the "State Orders") has had a devastating impact on local businesses, forcing them perilously on life support as they fight for their very economic survival and livelihood; and

WHEREAS, the impact of the State Orders on business operations has begun to have significant impacts on the City's revenue sources, resulting in the need to make deep and painful budget cuts that will impact essential operations of the City; and

WHEREAS, the Riverside County Board of Supervisors, noting the extreme hardship the State Orders have had on local businesses, personal freedoms and on the operations of local governments, unanimously approved its Readiness and Reopening Framework on May 12, 2020, requesting regional variance from the State to move into Expanded Stage 2 of the Governor's four-stage reopening plan; and

WHEREAS, the County's Readiness and Reopening Framework provides a path to reopen the economy with the appropriate health and safety measures in place and describes the County's progress towards achieving the readiness metrics that are required to enter into Expanded Stage 2, which, if approved by the State, would allow restaurants to reopen for inside dining and allow for retail stores to reopen; and

WHEREAS, the County of Riverside's proposed cycle for reopening sectors of the economy includes the following: (1) review and evaluate efforts to slow the spread of COVID-19; (2) engage with sector leaders to plan for reopening; (3) develop protocols for reopening; and (4) reopen sectors by stage; and

WHEREAS, on May 21, 2020, the County of Riverside submitted a revised request to the State to receive regional variance to move to Expanded Stage 2 of the State's reopening plan based on the State's revised readiness criteria; and

WHEREAS, on May 22, 2020, the State approved the County of Riverside's request for regional variance to move to Expanded Stage 2 of the State's reopening plan which allows all retail stores to reopen and allows restaurants to recommence dine-in service under social distancing and other restrictions; and

WHEREAS, given the City of Banning's extremely low infection and death rate from COVID-19 and the absence of any compelling state interest to keep Banning businesses closed, the City is now entitled to move into Stage 3 where most businesses will be allowed to reopen; and

WHEREAS, the City of Banning acknowledges the health risks associated with COVID-19 for all individuals, including and particularly, those with underlying health conditions and trusts our businesses to operate safely; and

Resolution 2020-69

WHEREAS, the City of Banning strongly advises individuals with underlying health conditions and those over the age of 65 to stay at home and follow State Public Health Department Orders and guidance along with guidelines from the National Center for Disease Control (CDC); and

WHEREAS, at the same time, the City of Banning welcomes, honors, and respects the contributions of all businesses, regardless of their size, and regardless of whether or not they have been deemed "essential" by state or county bodies to the economy, vitality and needs of the community in Banning; and

WHEREAS, the City of Banning's diverse businesses positively contribute to the economic, cultural, and social fabric of the City and they need an opportunity to regain economic strength and begin to operate freely but safely; and

WHEREAS, all businesses in the City have not only been a catalyst for the City's recent economic recovery from the Great Recession, but have also been the backbone of the City throughout its 107-year history, and we need them to now pull us out of the economic catastrophe caused by the COVID-19 shutdown; and

WHEREAS, the City of Banning's businesses are socially responsible, and are able and willing to maintain effective social distancing and health protocols to ensure the City remains one of the strongest COVID-19 success stories in California; and

WHEREAS, fostering a relationship of trust, respect, and open communication between City officials, businesses, and residents is essential to the City's mission of delivering effective public services in partnership with the community, thereby advancing a high quality of life for residents; and

WHEREAS, the City of Banning seeks to foster trust between City officials, businesses, and residents while properly allocating limited local resources and encouraging cooperation and open communication, to ensure public safety and due process for all, irrespective of business status; and

WHEREAS, the City of Banning desires to demonstrate its commitment to its businesses by providing a safe community and by assuring them that, in accordance with federal and state laws and all state licensing authorities, the City supports them reopening as quickly as possible.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Banning does hereby resolve as follows:

SECTION 1. The City of Banning supports the rapid reopening of businesses in Banning by urging the County of Riverside and the Governor of the State of California to take all actions needed to immediately move into Stage 3 of the Governor's reopening plan so that most businesses can reopen and do so in a healthy and safe manner.

Resolution 2020-69

SECTION 2. The City Council of the City of Banning wants businesses in Banning to understand that the City of Banning is not standing in their way. Local businesses are closed due to the State Orders, not because of the City's declaration of a local emergency which has no impact on the operations of local businesses.

SECTION 3. The City of Banning has limited code enforcement and public safety resources, which constrain its ability to monitor, track and enforce compliance of the City's businesses with the State Orders. The City will look upon Banning businesses to operate safely and responsibly with limited City oversight of their reopening requirements and responsibilities under State Orders.

SECTION 4. The City of Banning recognizes that State and County authorities directly license, permit, and regulate some businesses within the City and that the State Orders and phased reopening plans carry the force of law and that nothing in this Resolution is intended to abridge such authorities from overseeing applicable license regulations and restraints on such City businesses or to imply that they are immune from the State Orders or from other applicable state laws.

PASSED, APPROVED AND ADOPTED this 26th day of May 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

Resolution 2020-69

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2020-69, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of May 2020, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonja De La Fuente, Deputy City Clerk
City of Banning

Resolution 2020-69

ATTACHMENT 5

RECEIVED

By Sonja De La Fuente at 9:15 am, May 26, 2020

Hi Sonja: Can you please read when item comes up on page 91- IX -2 concerning elected vs. appointed City Treasurer. Thanks Dr. John

May 25, 2020

Honorable Mayor and City Council:

I would like to take this opportunity to thank the citizens of Banning for allowing me to represent them since 2004 as their elected City Treasurer. After 16 years in this office I have decided not to seek re-election. It has come to my attention that this may be the last year that the office of the City Treasurer be an elected position but may become an appointed position if approved by members of the city council.

The City Treasurer position has been an elected office for over 100 years. I see no reason why there should be a change now and I strongly feel that it should continue to remain an elected position. The City Treasurer should be an independent and autonomous voice in all financial matters affecting our City and residents. The Treasurer should be able to make suggestions and recommendations to the Council without fear of any retribution or removal from office.

Again, thank you for the opportunity to serve.

Sincerely,

John McQuown



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

05/26/2020
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
Tom Miller, Electric Utility Director
Art Vela, Public Works Director

I. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Andrade on May 26, 2020, at 4:00 P.M.

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 LEGAL COUNCIL – ANTICIPATED LITIGATION

Significant Exposure to Litigation Pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9 (One Case)

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Property: 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

Property: 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 REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8

Properties and Owners/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – Southeast corner of Ramsey Street and Hathaway Street, APN 532-140-005 – Frank J. Burgess; and Northeast corner of Ramsey Street and Hathaway Street, APN 532-120-020 – Frank J. Burgess and Lorna D. Burgess, Trustees

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

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

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

Property and Owners/Negotiating Parties: Real Property located in the vicinity of Ramsey and Hathaway – 1483 E. Ramsey St, APN 541- 170-019 – Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust

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

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

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

Property and Owner/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – 1573 E. Ramsey St, APN 541-170-021 – Jen H. Huang

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

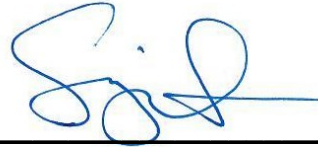
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements

City Council convened to Closed Session at 4:01 p.m. and reconvened to Open Session at 5:01 p.m.

II. ADJOURNMENT

By consensus, the meeting adjourned at 5:01 p.m.

Minutes Prepared by:



Sonja De La Fuente, Deputy City Clerk

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Director of Public Works
Kevin Sin, Senior Civil Engineer

MEETING DATE: June 9, 2020

SUBJECT: Authorize the City Manager to sign the Notice of Completion for Project No. 2019-05, "Street Rehabilitation at Various Locations" as complete and direct the City Clerk to record the Notice of Completion

RECOMMENDED ACTION:

That the City Council accept Project No. 2019-05, "Street Rehabilitation at Various Locations" as complete, authorize the City Manager or his designee to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

BACKGROUND:

On November 12, 2019, City Council adopted Resolution 2019-140 awarding a Construction Agreement to Hardy and Harper, Inc. for Project No. 2019-05, "Street Rehabilitation at Various Locations". The project was approved in the amount of \$1,451,000 with a 10% contingency for a total project budget of \$1,596,100.

The principal items of work included the grinding of existing asphalt concrete (AC) pavement; constructing new AC; crack sealing of existing AC pavement; apply slurry seals on various streets; remove and replace broken sidewalks, curb and gutters; remove and replace access ramps to comply with ADA requirements; repair potholes and trench repairs (related to water main repairs) on various streets; and remove and replace all affected pavement markings and striping. The work was performed at various locations throughout the City of Banning as shown in Attachment 2.

Project change orders were processed in the amount of \$58,472.02 increasing the contract amount by approximately 4% for a total contract amount of \$1,509,472.02.

Change orders addressed items such as additional repairs for deteriorated existing asphalt pavement, broken curb and gutter and cross-gutter; fixed additional concrete sidewalk and access ramps; and adjusted additional sewer manhole covers.

JUSTIFICATION:

The lowest qualified bidder, Hardy and Harper, Inc. was awarded the contract and work was completed on April 30, 2020. Public Works staff verified through inspections that the workmanship, materials, and procedures were satisfactory and that the contractor had met the required contract obligations.

FISCAL IMPACT:

The original contract was awarded in the amount of \$1,451,000 and the final contract amount for this project is \$1,509,472.02, under the allocated project budget approved under Resolution 2019-140. The project was funded by Measure A, SB 1 and Water Distribution funds.

ALTERNATIVE:

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

ATTACHMENTS:

1. Notice of Completion
<https://banningca.gov/DocumentCenter/View/7450/Attachment-1---NOC-Project-No-2019-05>
2. Project Locations
<https://banningca.gov/DocumentCenter/View/7451/Attachment-2---Project-Locations>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Public Works Director

MEETING DATE: June 9, 2020

SUBJECT: Resolution 2020-74, Approving the FY 2020/2021 – 2022/2023 Short Range Transit Plan and Authorizing the Submittal of the FY 2020/2021 Funding Claims

RECOMMENDED ACTION:

That City Council adopt Resolution approving the FY 2020/2021-2022/23 Short Range Transit Plan (SRTP) and authorizing the submittal of the 2020/21 funding claims.

BACKGROUND:

Under state law, the Riverside County Transportation Commission (RCTC) is tasked with the responsibility to identify, analyze, and recommend potential productivity improvements to ensure federal, state, and local funds are allocated to transit operators to provide needed transit services for county residents. In order to meet this obligation, RCTC requires the submittal of annual SRTP update by the county's public transportation operators, including the City of Banning.

The purpose of the annual SRTP is to: (1) identify the transit servicers and capital improvements required to meet the transit needs of Riverside County over a three-year period and the proposed sources of funding to carry out the plan; (2) serve as a management tool for the operators to guide their activities over the next year; and (3) provide justification for operating and capital assistance for grant applications to be submitted to state and federal funding agencies.

JUSTIFICATION:

The City's transit operations depend on Local Transportation Funds (LTF), State Transit Assistance (STA) and State of Good Repair (SGR) funds to cover its operational and capital expenses. In order to receive this funds the City must submit its formally approved

SRTP. The 2020/2021 – 2022/2023 has been developed by Public Works staff and reviewed by RCTC staff, who has deemed the SRTP ready for approval.

FISCAL IMPACT:

The approval of Resolution 2020-74 will provided the needed LTF, STA and SGR funding for the 2020/2021 fiscal year in the following amounts:

LTF: \$1,683,061

STA: \$509,278

SGR: \$80,600

ALTERNATIVE:

Reject Resolution 2020-74 which would result in the inability to file a LTF, STA and SGR funding claim for fiscal year 2020/2021.

ATTACHMENTS:

1. Resolution No. 2020-74
<https://banningca.gov/DocumentCenter/View/7448/Att-1-Resolution-2020-74>
2. 2020/2021-2022/2023 SRTP
<https://banningca.gov/DocumentCenter/View/7449/Att-2-Banning-SRTP>

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
Jennifer Jackson, Management Analyst

MEETING DATE: June 9, 2020

SUBJECT: Comment Letter – White Paper on Economic Feasibility Analysis in Consideration of a Hexavalent Chromium MCL

RECOMMENDED ACTION:

Receive and file.

BACKGROUND:

On May 15, 2020, Public Works staff submitted a comment letter on behalf of the City (Attachment 1) to the State Water Resources Control Board (SWRCB) regarding the “White Paper Discussion on Economic Feasibility Analysis in Consideration of a Hexavalent Chromium MCL” (“White Paper”) published by SWRCB in February, 2020 (Attachment 2). The City’s comment letter addressed the methodology outlined in the White Paper and offered suggestions SWRCB should take under consideration as it moves forward with developing a new Maximum Contaminant Level (MCL) for Hexavalent Chromium or Chromium-6 (Cr6).

JUSTIFICATION:

Cr6 compounds are a large group of chemicals which occur naturally in the environment, but high quantities are also produced by industrial users. Industrial users add Cr6 to iron and nickel to make metal alloys which have a high resistance to corrosion and oxidation. Chromium alloys are used to make products such as oil tubing, automobile trim, and cutlery. In addition, Cr6 is used in leather tanning, chromium plating, colored glass making and in paint pigments & inks that color plastics and fabrics and serve as corrosion-resistant coatings.

In 2011, the California Office of Environmental Health Hazard Assessment (OEHHA) established a Public Health Goal (PHG) for Cr6 of 0.02 parts per billion (ppb) based on cancer risk as Cr6 has been detected in numerous drinking water sources in California. In 2014, the California Department of Public Health (DPH) established an MCL of 10 parts per billion (ppb) for Cr6, while the national Cr6 standard remained at 50 ppb. However, in May 2017 the California Superior Court invalidated the MCL on the basis that DPH had not properly considered the economic feasibility of complying with the MCL. The Court further directed the SWRCB to withdraw the current MCL and to continue the effort to establish a new MCL. Shortly thereafter, the City of Banning sent SWRCB a letter supporting the Superior Court's ruling.

In February 2020, the SWRCB published a "White Paper Discussion on Economic Feasibility Analysis in Consideration of a Hexavalent Chromium MCL" and invited stakeholder comments. Also, as part of the stakeholder engagement process, the SWRCB held a public workshop in April 2020 in order to discuss the ideas outlined in the White Paper and to hear comments and suggestions by stakeholders regarding economic feasibility in the development of drinking water standards for Cr6.

Staff will continue to monitor and engage in the Cr6 MCL development process with SWRCB and report on any progress.

FISCAL IMPACT:

There is no fiscal impact related to the this receive and file item, although it should be noted that a stringent Cr6 MCL such as the one previously proposed by DPH of 10 ppb could result in financial challenges to meet the new standard.

Nine (9) of the twenty-one (21) wells that the City owns and operates would have exceeded the previously proposed limit of 10 ppb and two (2) that, although currently less than the previously proposed MCL, would have been close enough to the MCL to require treatment planning. Additionally, two (2) of the three co-owned Beaumont Cherry Valley Water District wells would have also been impacted. In June, 2016, a study of the City's impacted wells estimated a mid-range capital cost of \$25.5M (range \$18M - \$33M) and an annual operation and maintenance costs of \$600,000 per year. The endeavor to meet the previously established MCL of 10 ppb, which was later invalidated, would have undoubtedly resulted in a rate increase to the City's water customers.

ATTACHMENTS:

1. May 15, 2020 City of Banning Comment Letter
<https://banningca.gov/DocumentCenter/View/7441/Attachment-1---Banning-ltr-re-White-Paper-Econ-Feasibility-Analysis-Hexavalent-Chromium-MCL-051520>

2. White Paper Discussion on Economic Feasibility Analysis in Consideration of a Hexavalent Chromium MCL

<https://banningca.gov/DocumentCenter/View/7442/Attachment-2---SWRCB-White-Paper-0220>

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
Holly Stuart, Management Analyst

MEETING DATE: June 9, 2020

SUBJECT: Approval of a Street Sweeping Services Agreement with Cannon Pacific Services, Inc. dba Pacific Sweep of San Marcos, California in the amount of \$91,177 and Rejecting all Other Bids

RECOMMENDED ACTION:

City Council adopt the following:

1. Approving a Street Sweeping Services Agreement with Cannon Pacific Services, Inc. dba Pacific Sweep of San Marcos, California in the amount of \$91,177 with the option to renew for four (4) additional single year periods.
2. Authorizing the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to the agreement for Street Sweeping Services.
3. Authorizing the City Manager or designee to execute the Street Sweeping Services Agreement with Cannon Pacific Services dba Pacific Sweep for a one-year period with the option to renew for four (4) additional single year periods.

BACKGROUND:

The City of Banning, Street Division, currently performs street sweeping services in-house. The City owns one Tymco 600 Street Sweeper and one full time employee (FTE), classified as a Street Sweeper Operator, funded by the Gas Tax Fund. An interruption in service occurs when maintenance or repair of the City-owned sweeper is required.

Additionally, if the Street Sweeper Operator is out of the office (e.g. training, personal time off, etc.) the result may be an interruption in service should another trained crew member be unable to temporarily fill in due to other assignments and priorities. Currently, the Street Sweeper Operator position is vacant and temporarily filled by a retired annuitant.

In order to increase service levels and efficiency, staff identified the option to obtain a contractor for the operation of street sweeper services with the ability to provide back-up drivers and reserve drivers, as well as, back-up equipment to ensure continuity in services.

As a result, staff prepared specifications and a Request for Proposal (RFP) for street sweeping services which includes servicing arterial, collector, bike lanes and residential streets on a monthly basis. In general, street sweeping services includes the removal of dirt and debris from the City's streets that may otherwise create a public health concern. The elimination of accumulated debris, which may harbor insects and rodents or create public safety risks, will provide a health benefit to the community.

Street sweeping services will also eliminate roadside debris, pollutants and sediments that might otherwise enter the storm drain assisting the City in complying with the requirements of its National Pollutant Discharge Elimination System (NPDES) permit. In addition to standard monthly needs, the scope requires the Contractor to respond to special requests should there be hazards posing threat to public safety, such as debris creating traffic issues or broken glass. Street sweeping services may also be scheduled for special events.

On March 6, 2020, a Request for Proposals for street sweeping services was released through the ProcureNow purchasing system used by the City. In response, two (2) bids were received and ranked in the following order:

<u>Companies</u>	<u>Score</u>
1) Cannon Pacific Services dba Pacific Sweep	98%
2) Clean Street	78%

A committee consisting of three (3) members was assembled to evaluate the proposals based on qualifications, pricing, experience and professional references resulting in Cannon Pacific Services dba Pacific Sweep being ranked the highest. Following evaluation committee review, staff checked references, interviewed the highest ranked contractor and conducted a facility site visit.

As a result, staff recommends an award to Cannon Pacific Services dba Pacific Sweep of San Marcos, California, in the amount of \$91,177 with the option to renew the agreement for four (4) additional single years.

If awarded, staff anticipates that the work will commence beginning July 1, 2020 for a one-year period with the option to renew upon satisfactory review of provided services.

JUSTIFICATION:

The abovementioned services have been identified by Public Works Department staff as being necessary in order to efficiently manage and increase service levels of street sweeping operations. A Request for Proposals was released on March 6, 2020 through ProcureNow with Cannon Pacific Services dba Pacific Sweep being identified as the lowest responsive and responsible bidder.

The approval of staff's recommendation will create a savings to the Gas Tax fund, explained below.

FISCAL IMPACT:

Expenditures related to in-house street sweeping operations (e.g. fully burden street sweeper operator, equipment repair/maintenance, etc.) amount to approximately \$95,000-\$100,000 annually for less than fulltime services due to interruption in services (e.g. vacation, absences, equipment down time, etc.).

If approved, the Street Sweeper Services agreement with Cannon Pacific Services dba Pacific Sweep will amount to \$91,177 and will be funded by the Gas Tax fund and offset by salary savings. If approved, an interfund transfer will be made from salaries and fringe benefits to contract services.

ALTERNATIVES:

City Council may reject this approval. If rejected, the Street Sweeping Services agreement will not be obtained; therefore, operations will continue to be provided in-house.

ATTACHMENTS:

1. Request for Proposals
<https://banningca.gov/DocumentCenter/View/7452/Attachment-1-Street-Sweeping-Services-RFP-No-20-006>
2. Cannon Pacific Service dba Pacific Sweep Proposal
<https://banningca.gov/DocumentCenter/View/7453/Attachment-2-Pacific-Sweeping-Proposal>
3. Draft Agreement
<https://banningca.gov/DocumentCenter/View/7454/Attachment-3---Draft-Agreement-C00644-PACIFIC-SWEEPING>

Approved by:



Douglas Schulze
City Manager



**CITY OF BANNING
BANNING UTILITY AUTHORITY REPORT**

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: June 9, 2020

SUBJECT: Award a Professional Services Agreement for the Design of the Wastewater Treatment Plant Equalization Basin, to Albert A. Webb Associates in the Amount of \$217,536 and Approving a 10% Contingency for a Total Project Budget of "Not-to-Exceed" \$239,289.60

RECOMMENDATION:

Staff recommends that the City Council:

1. Award a Professional Services Agreement for the Design of the Wastewater Treatment Plant Equalization Basin, to Albert A. Webb Associates in the amount of \$217,536.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations, transfers and approving change orders within the approved contingency related to the Professional Services Agreement for the Design of the Wastewater Treatment Plant Equalization Basin.
3. Authorizing the City Manager or his designee to execute the Professional Services Agreement with Albert A. Webb Associates of Riverside, California in the amount of \$217,536.

BACKGROUND:

The City of Banning operates a Wastewater Treatment Plant (WWTP) with a capacity of 3.5 MGD. During prolonged rain events, the WWTP experiences substantial flow increases that affect the operation of the plant. When the flow increases materialize that exceed the capacity of the WWTP, the excess flow is directed to the on-site

storage ponds through overflow pipe located at the Primary Effluent Pump station. The on-site storage ponds are unlined, and they are not equipped to return the primary effluent to the treatment plant.

The Equalization Basin project seeks to design two connected basins. Basin 1 will have a capacity of 350,000 gallons and it will be used to equalize daily normal flows of treated wastewater and provide steady flows through the plant from the effluent of the primary clarifiers to the plant discharge. Basin 2 will be used to capture excess flows above normal daily flows such as those during rain events.

This project will also include the design of the Equalization Basin pump station. The pump will direct flow from the Equalization Basin to the primary effluent system upstream of the Trickling Filters.

JUSTIFICATION:

The design services and construction of the Equalization Basin are needed to control how much flow goes to the on-site basins, contain primary effluent that enters the basins, return the excess flow into the treatment system in a controlled manner and provide daily normal flow equalization for the plant. Equalization of daily normal flow allows for the WWTP to operate in more efficient manner and prolongs the life of certain mechanic components. The Equalization Basins will also provide storage during events (e.g. storms of high intensity, shutdowns, etc.).

On April 6, 2020, staff released an Invitation for Bid for the Design of Wastewater Treatment Plant Equalization Basin to six (6) consultants on the on-call engineering list approved by City Council on September 10, 2019 under Resolution 2019-116. The proposals were due on May 6, 2020. In response to the Invitation for Bid, three (3) proposals were received and the results are summarized as follows:

Firm Name	Total Bid Amount
Albert A. Webb	\$ 217,536
IMEG	\$ 242,805
Michael Baker International	\$ 248,175

The lowest responsive bid was from Albert A. Webb Associates of Riverside, CA.

FISCAL IMPACT:

Staff recommends awarding an agreement to Albert A. Webb Associates in the amount of \$217,536 and establishing a 10% contingency in the amount of \$21,753.60 for a total project budget of \$239,289.60. An appropriation from Fund 683, which has an estimated balance of \$1,888,087, to Account No. 683-8000-454.90-78 (Capital Expenditures/Planning/Design) is required to fund the project.

ALTERNATIVE:

Do not approve and provide alternative direction.

ATTACHMENTS:

1. Approved Resolution 2019-116
<https://banningca.gov/DocumentCenter/View/7443/Attachment-1-Approved-Resolution-2019-116>
2. Proposed Conceptual Layout Exhibit
<https://banningca.gov/DocumentCenter/View/7444/Attachment-2---Conceptual-Layout>
3. Albert A. Webb Proposal dated May 6, 2020
https://banningca.gov/DocumentCenter/View/7445/Attachment-3--Albert-A-Webb-Associates_Proposal

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, Director of Public Works

MEETING DATE: June 9, 2020

SUBJECT: Resolution 2020-73, Authorizing the Acceptance of an Allocation of Funds and Execution of a CARES ACT Funding Grant Agreement with the Federal Aviation Administration (FAA)

RECOMMENDED ACTION:

City Council adopt Resolution 2020-73:

1. Authorizing the Director of Public Works or his designee to accept and receive CARES Act grant funding and to prepare all necessary required FAA forms and reports related to FAA Grant No. 3-06-0018-016-2020.
2. Authorizing the Director of Public Works or his designee to execute the FAA CARES Act Grant Agreement in the amount of \$30,000 as the City's sponsored authorized representative.

BACKGROUND:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748, Public Law 116-136) signed into law by the President on March 27, 2020, includes \$10 billion in funds to be awarded as economic relief to eligible U.S. airports affected by the prevention of, preparation for, and response to the COVID-19 pandemic. In an effort to expedite the grant processing, the FAA prepared grant application No. SF-424 that the Director of Public Works submitted on April 21, 2020 for operational related funds.

The CARES Act provides funds to increase the federal share to 100 percent for Airport Improvement Program (AIP) and supplemental discretionary grants already planned for fiscal year 2020. Under normal circumstances, AIP grant recipients contribute a matching percentage of the project costs. Providing this additional funding and eliminating the local share will allow critical safety and capacity projects to continue as planned regardless of airport sponsors' current financial circumstances. If authorization is given by the City Council, the Director of Public Works and City Attorney must execute the Grant Agreement, shown as Attachment No. 2, by June 15, 2020.

JUSTIFICATION:

Under the CARES Act, the Office of Airports within the FAA has allocated funds to be used at eligible Airports within the United States and an amount of \$30,000 has been allocated to Banning Municipal Airport due to the COVID-19 pandemic.

FISCAL IMPACT:

The grant offer does not require any matching funds and the funds will be used towards the operational costs associated with the Airport, such as the Airport Attendant's salary.

ALTERNATIVE:

The City Council may choose not to adopt Resolution No. 2020-73 at this time, which would result in the City not being eligible to receive 2020 CARES ACT Grant funding for the operation of the Banning Municipal Airport.

ATTACHMENTS:

1. Resolution 2020-73
<https://banningca.gov/DocumentCenter/View/7438/Attach-1-Resolution-2020-73-Accept-FAA-Grant-for-CARES-Act>
2. FAA Grant Agreement No. 3-06-0018-016-2020
<https://banningca.gov/DocumentCenter/View/7439/Attach-2--BNG-WPG-3-06-0018-016-2020-Grant-Agreement-5122020>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: June 9, 2020

SUBJECT: Resolution 2020-61, Authorizing Staff to Utilize the Public Utilities Exceptions (Electric, Sewer, and Water) that Allows for Informal Procurements Without Formal Competitive Bidding as Provided for in Article 2, Section 3-105 (7) Notes and Exceptions, in the Purchasing Policy No. B-30, Approved by City Council Resolution 2018-156 on February 26, 2019 for the Purchase of Certain Supplies, Materials and Equipment for the City's Public Utility Departments.

RECOMMENDED ACTION:

Staff recommends discussion and possible authorization for use by the City's Electric, Water and Wastewater Utilities of the Public Utilities exceptions (electric, sewer, and water) to formal competitive bidding for informal procurements as allowed by Article 2, Section 3-105 (7) Notes and Exceptions in the Purchasing Policy No. B-30, approved by City Council Resolution 2018-156 on February 26, 2019.

- Approve Resolution 2020-61, authorizing use of the Public Utilities exceptions for informal procurement of specified items of equipment, materials and supplies for the fiscal year 2021.

BACKGROUND:

In February of 2019, the City Council adopted Resolution 2018-156, approving the Purchasing Officer's recommended amendments to the City's Purchasing Policy No. B-30. Within this updated Policy, Article 2, Section 3--105, Note (7) provides exceptions from regular purchasing procedures for the City's utilities (electric, sewer, and water) for certain types of materials, equipment and supplies listed in that Note. The list of items that may, with City Council approval, and with the review and approval by the Purchasing

Officer, be purchased without formal competitive bids are provided in Attachment 1 to this staff report. This list is sometimes referred to as the exceptions list.

The City's utilities, as a matter of routine business, regularly consume specific commodities, materials, inventory, and services which are included in the exceptions list, and that are typical to the operations, maintenance, planned replacement, and capital improvements of their respective enterprise services. In order to provide good customer service in a safe, timely, uninterrupted, and efficient manner, it is necessary for the utilities to routinely and at times, quickly, purchase these specifically excepted items without the delay that would result from compliance with the formal bidding procedures.

City staff understands that by invoking this exception, the staff in the Utility Departments would not be required to procure the items on the exceptions list through a formal competitive process. However, to address this issue and avoid an overuse of this exception, the approved Purchasing Policy incorporates two checks and balances applicable to purchases using these exceptions. In addition to the Council's authorization of these exceptions, the Purchasing Officer reviews these exceptions to formal procurement requirements through the requisition process. The Purchasing Officer is aware that there are items that often pose a peculiar and unique purchasing circumstance in which it can be difficult to acquire suitable and appropriate items that meet the distinct, specific needs of the utilities and are necessary to allow them to maintain adequate service levels for utility customers. Due to the nature of the public utilities industry, the specific and aged utilities' assets, and limited availability of qualified vendors, authorizing the exceptions within the Purchasing Policy will allow the utilities to meet the goals and needs set forth by Council to better serve the City's utility customers.

As standard practice and whenever possible, the public utilities departments will acquire more than one quote for a product, to ensure wise use of funds. When this is not possible or a situation is presented where it would be detrimental to reliability and service, the sole source function within the Purchasing Policy may be utilized, subject to the approval and recommendation of the Purchasing Officer. The public utilities of the City of Banning strive to provide continuity of service and improve work flow while purchasing the item for the best price and maintaining appropriate purchasing standards and practices.

JUSTIFICATION:

The City's utilities maintain capital improvement plans that have been reviewed and approved by the City Council. Further, the capital improvement plans and annual operations and maintenance programs are included in annual budgets and are authorized by the City Council on a regular basis. Requiring City Council review of routine purchases that are already approved through the capital improvement planning and regular budgeting updates can be redundant and inefficient. In addition, the routine practice of obtaining competitive proposals, bids or quotes from material vendors often will not result in cost-efficiencies because the items are unique, or the items have been found to be purchased for the best price from a particular vendor. The primary purpose of the City's

utilities is to provide continued reliable, and uninterrupted utility services. In order to ensure that the City's utility services remain consistently reliable, it is necessary for the City's utilities to have the means to quickly and efficiently acquire specific goods, equipment and services as identified and approved in advance by the City Council, and set forth as exceptions in the City's Purchasing Policy. The adoption of the Resolutions herein will serve to further ensure the continued, reliable provision of utility services to the City while at the same time providing authority to the Purchasing Officer to review and approve of the use of the exception for those purchases.

FISCAL IMPACT:

Expedited processing of purchase requisitions for items on the Purchasing Policy exceptions list will improve the timeliness, efficiency, and effectiveness of staff, and result in greater efficiency in the provision of utility services, thereby saving money.

OPTIONS:

1. Approve as recommended.
2. Approve with modifications.
3. Do not approve and provide alternative directions.

ATTACHMENTS:

1. Resolution 2020-61
<https://banningca.gov/DocumentCenter/View/7436/Att-1-Resolution-2020-61>
2. Purchasing Policy Number B-30
<https://banningca.gov/DocumentCenter/View/7437/Att-2-B-30-Procurement-Pages-16-and-17>

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: June 9, 2020

SUBJECT: 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:

Waive further reading and Adopt Ordinance No. 1562, approving the Amended and Restated Development Agreement No. 11 between the City of Banning and AMG Sign Company, Inc. ("AMG").

BACKGROUND:

May 26th City Council Public Hearing:

The City Council considered the continued public hearing for the Amended and Restated Development Agreement No. 11, between the City of Banning and AMG Sign Company, Inc. After deliberating on the outstanding concerns over advertising rights available to the City, discounted rates for Banning businesses, and restrictions over advertising content, the City Council approved the agreement by amending the term from twenty (20) to thirty (30) years, with an option to extend for additional ten (10) years and approved the balance of the applicant's changes presented during the May 26th public hearing. Including within the Council's approval was an introduction of the first reading.

May 12th City Council Public Hearing:

AMG sought to amend the Agreement. City staff 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 that were presented at the May 12, 2020 City Council Public Hearing that were 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, 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. These changes were presented to the Council at the May 12, 2020 City Council meeting.

February 25th City Council Public Hearing:

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 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.

January 15th Planning Commission Public Hearing:

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.

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 public benefits, including an annual fee of \$50,000 to the City. Development Agreements are statutorily required to include a public benefit 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:

- a) **Local Business Advertising Discount:** It is anticipated that each side of the Electronic Message Center will display approximately eight (8) messages per minute. Each message is referred to herein as a “Rotation.” Owner will provide up to one Rotation, on one side, of the Electronic Message Center at its sole discretion to any Qualifying Business at a fifty percent (50%) discount off of the normal (full rack) Electronic Message Center display rate(s). Qualifying Businesses are those which meet all the following requirements: 1. they are located within the CITY; 2. they have an annual gross income of no more than one million dollars

(\$1,000,000); and 3. they are members in good standing of the Banning Chamber of Commerce. The Rotation provided to Qualifying Businesses pursuant to this paragraph may be purchased in its entirety by one such business or divided among several on a first come, first served basis. The smallest increment in which the discounted Rotation will be available for purchase by any Qualifying Business will be 60th.

City staff believes that this change implements the Council's direction, with the exception of limiting the discount to Chamber Only Members.

- b) **City Advertising Rights:** CITY shall be entitled to use up to one full Rotation for a Public Service Message on one side of the Electronic Message Center on a continuous basis. Notwithstanding the foregoing should CITY not utilize its allotment of advertising space, OWNER shall be entitled to lease that time for other advertising purposes. For all Public Service Messages, CITY shall be responsible for providing OWNER with the advertising copy and artwork

City staff cannot agree with the modified language as it does not provide specificity as to the City's advertising rights. The modified section removes the interval of time in which the City's add will incorporated into the advertising rotation schedule.

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 covenants and agrees for itself, its successors and assigns that in no event shall the Electronic Message Center display any advertisement that is obscene or depicts or refers to any of the following: (a) strip club, or gentlemen's club featuring nude or partially-clothed dancers or wait staff, (b) mud wrestling (c) pornographic materials, (d) sexually oriented novelty products, (e) adult books, magazines, website, videos or other similar forms of adult entertainment, and (f) stores, websites or establishments selling or featuring any of the foregoing materials.

The proposed revisions have the effect of allowing for alcohol and tobacco products within the advertising content. In addition, potential Retail Cannabis Dispensaries are allowed to advertise under the current and proposed agreement. The proposed revisions do strengthen the City's ability to object advertising content but does not provide "veto authority" over any advertising content the City finds objectionable.

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. While these regulations on sign removal provisions have not changed; however, AMG and the City have agreed upon an extended term of the agreement (Section 2.4) that automatically renews the Agreement for an additional ten (10) years at the end of the initial ten (10) year term. Notwithstanding this revision, the agreement can be amended at any time, by either party based upon their mutual understanding.

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, Banning Chamber businesses (in good standing) will receive up to a 50% discount. Furthermore, the City will be allowed to have one (1) eight second advertisement for month community service advertisements; however, how long this advertisement will last is still unknown (5-19-20).

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/7457/Att-1--Ordinance-1562>
2. Amended and Restated Development Agreement No. 11
<https://banningca.gov/DocumentCenter/View/7458/Att-2-AMG-Digital-Ad-Sign-DA-rev-5-28-20>

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: June 9, 2020

SUBJECT: Resolution 2020-75, Approving the Interagency Services Agreement between the City of Banning and the City of Beaumont for the purpose of providing coordinated transit services

RECOMMENDED ACTION:

Staff Recommends that City Council adopt Resolution 2020-75, approving an Interagency Services Agreement between the City of Banning ("Banning") and the City of Beaumont ("Beaumont") for the purpose of providing coordinated transit services.

BACKGROUND:

On October 22, 2002 the City Council of the City of Banning approved Resolution 2002-76, "Resolution of the City Council of the City of Banning Authorizing the Execution of an Agreement with the City of Beaumont to Provide Coordinated Transit Services".

Subsequently, on June 25, 2019 City Council approved an Interagency Services Agreement (ISA) which superseded the 2002 Agreement. The new ISA described the manner in which integration will occur between both agency's transit operations, including the following:

1. Cooperation in providing the public with specific bus transit information, advertising the operations of both agencies and promoting the general use of public transit.
2. Cooperation in the location, installation and maintenance of the following jointly used transfer bus stops:
 - a. Walmart Transfer Station – 1540 E. 2nd Street, Beaumont, CA 92223
 - b. San Geronio Memorial Hospital – 600 N. Highland Springs Avenue, Banning, CA 92220

3. Banning will be limited to no more than three buses per hour at the Walmart Transfer Station.
4. Beaumont will be limited Beaumont to no more than three buses per hour at the San Gorgonio Memorial Hospital bus stop.
5. Each party agrees that neither party will board passengers at any other bus stop within the other party's jurisdiction, with the exception as those listed as transfer bus stops.
6. Each party shall retain all fares collected in the operation of their service.
7. Each agency agrees to accept a one-time transfer media (e.g. ticket) of the other agency valued at the base fare at the above mentioned transfer stops. Passengers will not be required to "top-up" their bus fare to cover any shortfall between the agencies base fare.
8. The transfer ticket or media shall not be issued on a Dial-A-Ride or other curb-to-curb service.
9. Each party shall accept the other party's valid employee identification, on all fixed route and commuter services in lieu of payment of fare.
10. Each agency will accept the others Military Veteran Identification for purchase of each other's reduced Veterans fares.
11. Neither party may operate duplicating services in the other's jurisdiction without the written approval of the other party's elected city council.

JUSTIFICATION:

The ISA has resulted in increased ridership for the Banning transit operations as well as coordination efforts between both cities. The ISA described above, which was approved on June 25, 2019 is set to expire on June 30, 2020.

For these reasons staff recommends that the City Council approve Resolution 2020-75 approving the ISA as attached and as previously approved in 2019 (i.e. no changes to agreement language).

FISCAL IMPACT:

Banning's transit operations realized an increase in ridership and farebox revenue in the current fiscal year as a result of operational changes made related to the ISA such as Beaumont revising their operations to no longer operate along the Ramsey Street corridor. Although, the increase was short lived due to ridership impacts related to COVID-19, it is expected that the ridership increase will once again be realized once things resume to normalcy.

ALTERNATIVE:

Do not approve Resolution 2020-75 and provide additional direction.

ATTACHMENTS:

1. Resolution 2020-75
<https://banningca.gov/DocumentCenter/View/7455/Attachment-1-Resolution-2020-75>
2. Interagency Services Agreement
<https://banningca.gov/DocumentCenter/View/7456/Attachment-2-Banning-Interagency-Agreement-62020>

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

MEETING DATE: June 9, 2020

SUBJECT: Resolution No. 2020-76, Awarding a Construction Agreement for IFB No. 20-017, Project No. 2020-01EL "Ivy and Stagecoach Substation Construction" to Electric Power Systems International, Inc., of Santa Ana, CA in an amount not-to-exceed \$6,618,636.70 and Rejecting all Other Bids.

RECOMMENDED ACTION:

The City Council adopt Resolution:

1. Approving a Construction Agreement Project No. 2020-01EL "Ivy and Stagecoach Substation Construction" to Electric Power System International, Inc. ("EPSII") of Santa Ana, CA in an amount not-to-exceed \$6,618,636.70 and Rejecting all Other Bids.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2020-01EL "Ivy and Stagecoach Substation Construction" and to approve change orders within the 10% contingency.
3. Authorize the City Manager or his designee to execute the Construction Agreement with Electric Power System International, Inc. for Project No. 2020-01EL "Ivy and Stagecoach Substation Construction".

BACKGROUND:

In order to provide reliable service while maintaining competitive rates, the City of Banning Electric Utility ("Utility") must plan its capital improvements with strategic replacement of aging infrastructure. Electrical distribution substations are a critical piece of this

infrastructure, bridging the Utility's subtransmission system to the distribution system before power can be distributed via circuit lines to the Utility's customers.

The Utility originally identified the need to upgrade the distribution system during the completion of the "10-Year Electric System Master Plan 2004-2014." As a part of an effort to complete the projects that were proposed in the preferred plan, the Banning City Council adopted resolution 2010-27 authorizing the Utility to utilize a portion of its Electric Bond proceeds for substation upgrades that would coincide with the completion of voltage upgrades for the distribution system.

The Utility owns and operates two (2) 4kV and four (4) 12kV distribution substations throughout the Banning Electric service territory. With the 4kV Airport and Alola Substations having exceeded their expected useful lives, it is imperative that the Utility replace both substations and convert all distribution circuits throughout the entire electric system to 12kV voltage. In addition to a multitude of operating benefits, this upgrade and conversion will provide the ability to easily switch load during planned and unplanned outages to completely avoid, or minimize, customer impact. This upgrade will further improve the reliability of the Utility's electric system and provide the capacity necessary to meet all energy required at full City build out.

On June 14, 2016, City Council adopted resolution No. 2016-42 which allowed the Utility to pre-purchase most of the large utility distribution equipment for the 12kV substation conversion. This allowed the Utility to save on equipment costs by selecting the lowest responsive and responsible bidders and avoid any markup costs that would accompany contractor-purchased equipment.

As Utility staff reviewed the capital upgrades and design for these additions, it was realized that merely rebuilding the Alola and Airport substations in their current locations wouldn't be as effective as relocating the two substations to best meet the demands of the loads that they would serve. The Utility set out to investigate some of the undeveloped properties that would be suitable for the buildout of a substation and also close enough to existing distributions poles to allow minimal disturbance of the public right-of-way beyond each substation. As result Utility entered into purchase agreements for APN 543-090-008 at the southwest corner of Westward Avenue and Hathaway Street to build Ivy Substation, and APN 534-152-125 on Hargrave Street approximately 140 feet north of Theodore Street for the construction of Stagecoach Substation. The agreement of sale for each property has been completed and CEQA documentation/environmental analysis has been completed to allow grading and construction to occur at each site.

On May 6, 2020, the Utility and Purchasing staff advertised an Invitation for Bids (IFB No. 20-017) in The Press-Enterprise and posted thru ProcureNow, E-bid Board, Plan Room, SoCal Builders, and Bid America. Additionally, email notifications were sent out to all vendors by ProcureNow. The Utility also conducted a mandatory job walk on May 14, 2020 in which five prospect bidders attended. In response to these efforts, the City on June 1, 2020 received the following bid:

<u>Companies</u>	<u>Price</u>
Electric Power Systems International Inc.	\$6,016,967

The other contractors who attended the mandatory job walk had decided not to submit a bid by listing reasons such as being too busy to respond, not able to offer the products or services sought, or that the timeline was too short. The Purchasing staff has conducted reference checks on the apparent low bidder, Electric Power Systems International Inc. (EPSII), and found that the company is responsive and responsible on their contracts with other agencies on similar projects. The company is also able to purchase and install the 38kV Go-Lean power circuit breakers that are listed as a requirement of the contract.

As a result, staff recommends that the Construction Agreement be awarded to the lowest responsive and responsible bidder, EPSII of Santa Ana, California, in the amount of \$6,016,967. A copy of the bid schedule for the lowest bid can be found attached hereto.

If awarded, staff anticipates the work to commence in July 2020 and to be completed within three hundred (300) working days or approximately one (1) year and two (2) months from the issuance of a Notice to Proceed.

JUSTIFICATION:

EPSII is the lowest responsive and responsible bidder to construct Project No. 2020-001EL, "Ivy and Stagecoach Substation Construction". The project will improve the Utility's electric grid by replacing aging infrastructure and standardizing the Utility on the 12.47kV standard voltage which allows for better resiliency and less outage duration. Additionally, we are required to spend the bond proceeds that have been specifically earmarked for the upgrades of Alola and Airport Substations, which will be replaced with Ivy and Stagecoach Substations.

FISCAL IMPACT:

The Construction Agreement for Project No. 2020-01EL "Ivy and Stagecoach Substation Construction" will be for an "not-to-exceed" amount of \$6,618,663.70 which includes a 10% contingency and will be funded by the following accounts:

FUND	AMOUNT
Electric Revenue Bond Project Fund Acct: 674-7000-473.96-32	\$1,450,465.00
Electric Revenue Bond Project Fund (674-7000-473.96-33)	\$220,793
Electric Improvement Fund (673-7000-473.96-45)	\$4,947,405.70
TOTAL	\$6,618,663.70

Appropriations from Fund 673, in the amount of \$4,947,405.70 to expenditure account 673-7000-473.96-45 above is required to fund the Construction Agreement for the Project.

The complete scope for the block walls for security at both substations has yet to be determined. The Utility has accepted the proposal from EPSII for line items A31 and B31 as an expanded scope that should include all unforeseen conditions during construction. The Utility will be looking to save costs for this activity where appropriate once the complete scope has been defined.

OPTIONS:

1. Adopt the Resolution.
2. Reject Resolution No. 2020-76. If rejected the various improvements as identified in this project will not be constructed at this time.

ATTACHMENTS:

1. Resolution 2020-76
<https://banningca.gov/DocumentCenter/View/7472/Att-1-Resolution-2020-76-Ivy-and-Stagecoach>
2. Electric Power Systems International, Inc. Bid Schedule
<https://banningca.gov/DocumentCenter/View/7473/Att-2---IFB-20-017--Electric-Power-Systems-Proposal>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: June 9, 2020

SUBJECT: Resolution 2020-66, Calling for a Ballot Measure to Ask Voters Whether the Position of Banning City Clerk Should be Appointive

RECOMMENDED ACTION:

City Council adopt a motion providing direction to the City Manager regarding the position of City Clerk. As a policy matter, the City Council must decide whether to propose the subject ballot measure. If the Council decides to do so, staff recommends adoption of the attached Resolution.

BACKGROUND:

State law requires every general law city to have a City Clerk who may be either elected by the voters or appointed by the City Council or the City Manager. The City Council has asked for a discussion to consider whether to ask the Banning electorate if the positions of City Clerk in Banning should be changed from elected to appointed and has directed staff to present information about this process. A draft Resolution for consideration is included as an attachment to this staff report, should the Council decide to move forward with a ballot measure on the question.

The City Council has directed staff to research the process, timing and cost to place a measure on the regular November 2020 ballot, to ask voters whether the position of Banning City Clerk should be changed from elective to appointive, and to prepare such a resolution for consideration.

Ballot Measure

The California Government Code addresses the election process for this ballot question for a general law city. "Section 36508. At any municipal election, or a special election held for that purpose, the city council may submit to the electors the question whether the elective officers, or any of them except council members, shall be appointed by the city council;

provided, however, that the city council shall not submit such question to the electors more often than once in an 11-month period. "36509. The question shall be printed on the ballots used at the election substantially in the following form: 'Shall the office of city clerk be appointive?' The words 'yes' and 'no' shall be so printed on the ballots that the voters may express their choice. "36510. If a majority of the votes cast on the proposition is for it, the city council shall appoint such officer at the expiration of the terms of the officer then in office, and on a vacancy in any such office. Such officer shall hold office during the pleasure of the city council and, notwithstanding Section 36502 to the contrary, is not required to be a resident or elector in the city. The city council may by ordinance vest in the city manager its authority to appoint such officer." Placing a ballot measure before the electorate is accomplished by City Council adoption of a resolution that:

- Submits proposed ballot measure wording to the Riverside County Elections Department,
- Authorizes City Council members and/or other individuals (up to five) to file a written argument regarding the measure, including providing for the filing of rebuttal arguments to the measure in accordance with filing deadlines, and
- Directs the City Attorney to prepare an impartial analysis of the measure.

City Clerk Duties and Responsibilities

The basic duties of the City Clerk are set forth in the Government Code. "40801. The city clerk shall keep an accurate record of the proceeding of the legislative body in books bearing appropriate titles and devoted exclusively to such purposes, respectively. The books shall have a comprehensive general index. "40806. The city clerk shall keep a book marked "ordinances" and record in it all city ordinances with his certificate annexed to each, stating: (a) It is a true and correct copy of a city ordinance. (b) The ordinance number. (c) It has been published or posted pursuant to law. "40811. The city clerk is the custodian of the city seal. "40812. [The city clerk] shall perform such additional duties as are prescribed by ordinance. "40813. The city clerk may appoint deputies, for whose acts he and his bondsmen are responsible. The deputies shall hold office at the pleasure of the city clerk and receive such compensation as is provided by the legislative body. "40814. The city clerk and his deputies may administer oaths or affirmations and take and certify affidavits and depositions pertaining to city affairs and business which may be used in any court or proceedings in the state. The acknowledgment of an instrument may be made before a city clerk and his deputies within the city in which they were elected or appointed."

Additional City Clerk responsibilities in addition to these basic, historic duties, the legislature has assigned ever greater and more complex responsibilities to the City Clerk over the years. Per Election Code Section 320, the City Clerk is the Election Official for the City. In this capacity, the City Clerk interacts with the County Elections Department during all local elections to assure compliance with all election laws and regulations. Under Section 54950 et seq. of the Government Code, the City Clerk is responsible for ensuring compliance with the Brown Act ("Open Meeting Laws"), regarding conduct of city business and responses to public inquiries. The Political Reform Act, Government Code Section 83111, designates the City Clerk as the official responsible for coordinating, recording and retaining the Statements

of Economic Interests of all elected and appointed officials and staff, and for collecting and maintaining all candidate Campaign Finance Forms.

Elective Versus Appointive City Clerk

Of the 482 cities in California, 328 (68%) have appointed City Clerks and 154 (32%) have elected City Clerks. Nationally, over 80% of City Clerks are appointed. The percentage of elected City Clerks in California has continued to decline. As the legal responsibilities and professional expertise required to fulfill the duties of the position have increased, elected City Clerks are being replaced by appointed professional staff with appropriate training and experience who typically perform both City Clerk and other City staff duties.

Integration of City Clerk Function with City Staff Operations

In Banning, many of the increased obligations imposed on the position of City Clerk over time are performed by City staff. Specifically, the position of Deputy City Clerk carries out the day-to-day responsibilities. The City Clerk performs oaths of office and signs official documents that cannot be signed by the Deputy City Clerk. The office of the City Attorney is responsible for Brown Act compliance and response to Public Records Act requests; the office of the City Manager is responsible for Elections and Campaign Finance Law compliance, as well as Agenda preparation, public information and overall records management. If the position of City Clerk becomes appointive, it would be expected that the employee assigned those duties would work under the direction of the City Manager, with those duties comprising only part of a larger scope of responsibilities. A City Clerk function in which all of the work is performed by in-house staff, as opposed to the current arrangement in which some work is performed by staff and other work by an elected official, would be more straightforward to effectively manage.

Ballot Measure Timing

The resolution calling for the municipal election must be adopted at least 88 days prior to the election, which for the November 3, 2020 election would be by August 7, 2020. The last scheduled City Council meeting before the 88-day deadline is July 14, 2020. Should the measure pass, it will become effective at the end of the existing term, in November of 2024.

JUSTIFICATION:

For discussion purposes and direction to City staff.

FISCAL IMPACT:

The cost to the City to place this question on the November 2020 ballot will vary, depending on the number of words in the measure and the amount of information put into the voter information pamphlet. However, the County elections staff advises that the total cost would be expected to be approximately \$1 per registered voter. With some 14,500 registered voters in Banning, the cost to the City for the election would be approximately \$14,500. As to ongoing costs, in the event the position of City Clerk becomes appointive, the cost of having appointed staff perform the duties currently performed by the Clerk would be roughly offset by the stipend savings of the elected Clerk.

OPTIONS:

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

ATTACHMENTS:

1. Resolution 2020-66
<https://banningca.gov/DocumentCenter/View/7434/Resolution-2020-66-Ballot-Measure---Appointive-City-Clerk>

Approved by:



Douglas Schulze
City Manager



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

MEETING DATE: June 9, 2020

SUBJECT: First reading of an ordinance to reduce the cannabis cultivation tax from \$15 to \$5 per square foot of canopy space for the first year a business is in operation, and \$10 per square foot of canopy space for every year thereafter

RECOMMENDED ACTION:

That the City Council conduct first reading of an ordinance to amend Chapter 3.17 of the Banning Municipal Code to reduce the cannabis cultivation tax from \$15 per square foot of canopy space to \$5 per square foot of canopy space the first year that the business is in operation, and increasing the tax to \$10 per square foot every year thereafter that the business is in operation.

BACKGROUND:

At its May 12, 2020 meeting, the City Council considered making several revisions to the cannabis program to increase the number of cannabis businesses operating in the City. One point of discussion was whether the cannabis cultivation facilities tax was too high and was discouraging cannabis cultivators from locating and operating in the City. After considering how other cities tax cannabis cultivation facilities, the City Council decided to retain the methodology for taxing cannabis cultivation facilities on the square footage of the canopy space devoted to the growing of cannabis rather than a gross receipts tax. The City Council also directed staff to draft an ordinance decreasing the cannabis cultivation tax, which is currently set at \$15 per square foot of canopy space. The City Council proposed a tiered structure where a cannabis cultivation facility is taxed \$5 per square foot of canopy space for the first year that the business is in operation. Beginning the second year, and every year thereafter, the business will be taxed at \$10 per square foot of canopy space.

DISCUSSION:

Banning Municipal Code (“BMC”) Chapter 3.17 as adopted by Banning voters in 2018 as Measure N, 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). After reviewing the taxes that are imposed by other local jurisdictions in Riverside and San Bernardino County, the City Council, at its May 12, 2020 meeting, determined that Banning’s cannabis cultivation tax is too high in comparison to other jurisdictions. After considering various alternatives to addressing the cultivation tax issue, the City Council determined that it was appropriate to keep the tax methodology based on canopy space but reduce the tax rate from \$15 dollars per square feet of canopy space and instead adopt a tiered based tax structure. Under the tiered approach, a cannabis cultivation facility would pay \$5 dollars per square feet of canopy space for the first year the business is in operation, as permitted by Measure N. The second year of operation, and every year after that, a cannabis cultivation facility would pay \$10 per square foot of canopy space. The rationale for this tiered approach is that with a lower tax in the first year, the cultivator can preserve more of its start-up costs for operations. Accordingly, this is regarded as a form of tax incentive for cultivators to locate in Banning versus in a nearby location. .

For a more thorough discussion of the cannabis cultivation tax, please see Section C of the May 12, 2020 staff report, which is included as **Attachment A**. The May 12, 2020 staff report also contained as **Attachment B**, a chart summarizing the tax rates that are imposed by cities in the Riverside and San Bernardino County. In addition, Section E of the May 12, 2020 staff report also contained a summary of the State taxes imposed on cannabis cultivators.

FISCAL IMPACT:

At this time, staff is unable to quantify the fiscal impact associated with the reduction in the cultivation tax. Since there are no cannabis cultivation facilities currently operating in the City, this will not reduce any taxes that the City is currently collecting. Staff anticipates that the reduction in the tax rates may provide some incentive for cannabis cultivation facilities to submit conditional use permit applications to operate in the City, and ultimately begin operating in the City. This could have the effect of increasing the amount of commercial cultivation activities occurring in the City which could end up increasing the overall amount of tax revenue generated to the City from this activity. It will take some time (likely a year or more) for tax revenue from cannabis cultivation activity to come into the City’s coffers since there is a lead time for cultivators to apply for approval, prepare building plans, complete construction and commence growing operations. However, if the reduction in tax rate has no impact on the willingness of cannabis cultivators to do business in the City,

then the amount of taxes that the City will ultimately and finally start collecting from these businesses would be lower than if the City had not adopted this ordinance.

ATTACHMENTS:

- A. Ordinance 1564

<https://banningca.gov/DocumentCenter/View/7460/Att-1-Ordinance-1564>

- B. May 12, 2020 Staff Report and Attachments

<https://banningca.gov/DocumentCenter/View/7461/Att-2-May-12-Staff-Report>

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: Kevin G. Ennis, City Attorney
Maricela E. Marroquin, Assistant City Attorney

MEETING DATE: June 9, 2020

SUBJECT: Three potential ballot measures to be placed on the November 2020 ballot by the City Council: (1) a proposed ordinance authorizing the imposition of a 10% gross receipts tax on cannabis distributors, (2) a proposed ordinance to retain the cap on cannabis retailers which is set at one (1) for every 10,000 residents, and (3) a proposed ordinance to increase the cap on cannabis retailers to one (1) for every 3,000, 4,000, or 5,000 residents (or some other ratio), depending on the Council's direction

RECOMMENDED ACTION:

Staff recommends that the City Council:

1. Discuss the draft ballot measure to impose a municipal tax on cannabis distributors and provide direction to staff regarding any desired modifications to the ballot measure.
2. Discuss the two (2) draft ballot measures regarding the cap on cannabis retailers and provide direction to staff regarding any desired modifications to the two (2) ballot measures.
2. Review the draft resolutions calling for the proposed measures to be placed on the November 2020 ballot and submitted to the voters of the City at the general municipal election to be held on Tuesday, November 3, 2020.

BACKGROUND:

At its May 12, 2020 City Council meeting regarding the City's cannabis program, the City Council directed staff to proceed with drafting an ordinance to tax cannabis distributors.

At that same meeting, the majority of the City Council was inclined to leave the cap on the number of cannabis retailers at the present level specified in a prior ordinance adopted by the City Council (and not the voters) which allows one retailer for every 10,000 residents. However, a majority also suggested that it should be up to the voters and not the Council whether the cap should be increased. The City Council did not provide specific direction on what an appropriate cap should be. This issue will be discussed at the Planning Commission meeting scheduled for June 3, 2020. City staff will provide the Council with an oral update as to what the Planning Commission recommended with respect to the cap.

In order to follow-up on the Council's request that we come up with a way to ask the voters whether they want to keep the current cap or increase it, staff has developed two ballot measures that could be placed on the ballot concurrently. The first would ask the voters if they want to retain the current cap of one (1) retailer for each 10,000 residents in Banning,

The second ballot measure would ask the voters if the cap should be increased to allow more retailers than the current three (3), by changing the ratio to allow one (1) cannabis retailer to operate for every 5,000, 4,000, or 3,000 residents, or any other ratio the Council deems appropriate. Based on the City's current population, this would allow up to six (6), eight (8), or ten (10) potential cannabis retailers to operate in the City, respectively. The Council would need to specify the ratio as part of the wording of the ballot question so that the question is posed in the required "Yes" or "No" format rather than in a format of whether the voters want a ratio based on 5,000, 4,000 or 3,000 persons.

DISCUSSION:

A. Cannabis distribution tax measure

On June 3, 2020, the Planning Commission will be holding a public hearing to consider a draft ordinance that would, amongst other changes, amend Chapter 17.53 of the Banning Municipal Code ("BMC") to allow cannabis distribution facilities to operate in the Industrial zone. A cannabis distribution facility is defined to mean a business that transports cannabis and cannabis products between State licensed cannabis retailers, manufacturers, cultivators and testing laboratories. Staff anticipates that this draft ordinance will be presented to the City Council for consideration at its June 23, 2020 meeting. The draft ordinance presently contains a provision stating the ordinance will

only go into effect if the voters impose a tax on cannabis distribution facilities. This is subject to change based on City Council direction.

Measure N, which was approved by the voters in November 2018, imposed a 10% gross receipts tax on cannabis manufacturing facilities and testing laboratories. BMC Section 3.17.030. The proposed ballot measure amends BMC Section 3.17.030 to similarly impose a 10% gross receipts tax on cannabis distribution facilities. The ballot measure will grant the City Council authority to both reduce and increase the tax on cannabis distribution facilities as long as the tax does not exceed 10% of gross receipts. So if the voters adopt the measure, the Council could determine soon thereafter to fix the tax rate at zero (0%) or in any amount that is less than 10% and then allow the tax rate to be adjusted by future City Councils as conditions warrant. This type of authority for the Council to adjust the tax rate in the future is the same authority the voters approved as part of Measure N in 2018. Staff prepared a resolution, included as **Attachment A**, regarding the placement of this measure on the ballot. The ballot measure is included as **Attachment B**.

Potential positive fiscal impact could be derived from taxing cannabis distributors. Staff was not able to determine how much tax revenue other cities have derived from cannabis distribution facilities because, in their publicly accessible documents, cities do not appear to separate the amount of taxes that are generated specifically by distributors, but rather have a general category for all cannabis taxes generated (other than cultivation). Elections Code Section 13119 requires that the ballot question include the amount of money generated annually by the proposed tax. Staff is currently researching this issue so there are blanks in the ballot question that is contained in the draft resolution included as **Attachment A**. Staff will provide an estimate of the amount of local taxes staff anticipates will be generated by cannabis distributors when the final version of the resolution is presented to the Council for its consideration at a future meeting.

B. Cannabis Retailer Cap

BMC Section 17.54.080(A) provides that only one cannabis retailer for every 10,000 residents may lawfully operate in the City, with any fraction of that ratio being rounded down to the nearest whole number. As this provision was not adopted by the voters, the City Council has discretion to increase or decrease the number of cannabis retailers that may lawfully operate in the City.

At the May 12, 2020 Council meeting, the City Council tentatively decided that the issue of the number of cannabis retailers that should be allowed to operate in the City should be decided by the voters. Accordingly, staff has drafted two separate ballot measures on

this topic. Staff has prepared a resolution, included as **Attachment C**, regarding the placement of these two measures on the ballot.

The first ballot measure confirms the cap at one (1) cannabis retailer for every 10,000 residents that is currently codified in BMC Section 17.54.080(A). If the voters want that cap to be left in place, they can vote “yes” on that ballot question. If voters think the cap should not be imposed by the voters or not imposed at that ratio, the voters can vote “no” on that ballot question. The ballot measure confirming the cannabis retailer cap is included as **Attachment D**.

The second ballot measure amends BMC Section 17.54.080(A) to increase the cap. The second ballot measure currently has a placeholder to allow one (1) cannabis retailer for every 3,000, 4,000, or 5,000 residents, depending on which cap is chosen by the Council to be placed into the ballot question. The Council could also select a different ratio if it so chooses, or select a cap that is not based on population but that is fixed. In evaluating what cap to select, the Council may or may not want to consider the demand for cannabis in the City and neighboring jurisdictions, and how many businesses could successfully operate in the City without oversaturating the market. The ballot measure increasing the cannabis retailer cap is included as **Attachment E**.

FISCAL IMPACT:

If the voters adopted a ballot measure to tax cannabis distributors, this could potentially, and over a period of time, eventually generate additional revenue for the City’s general fund. Staff is currently researching the amount of local taxes that a 10% gross receipts tax on cannabis distributors could yield for the City. The amount that is generated would depend largely on the number of distribution facilities that eventually operate in the City, the period of time between approval of those uses and commencement of those business operations, as well as the profitability of those businesses. When the final version of the resolution contained in **Attachment A** is presented to the City Council at a future meeting, staff will provide information pertaining to the fiscal impact of the cannabis distribution ballot measure.

If the voters adopt the ballot measure to increase the cap on the number of cannabis retailers that can operate in the City, this could increase the amount of local taxes that the City can collect as there will be more cannabis retailers that will presumably begin to operate in the City which in turn could increase the amount of local taxes that the City can collect. However, the potential increase in revenue may not be achieved for several months or a year or so to account for the period of time to have those retailers find appropriate space in the City to operate, process and obtain a conditional use permit, prepare building plans and complete construction or tenant improvements. If the voters adopt the ballot measure that maintains the current cap on cannabis retailers, then the

amount of taxes that the City collects from these businesses would not change from current projections.

NEXT STEPS:

If the City Council provides direction that it would like to adopt the draft resolutions to call for the proposed ballot measures to be placed on the November 2020 ballot, staff shall take any direction provided and finalize the draft resolutions and draft measures and return to Council on June 23, 2020 for consideration of the final versions of these documents.

ATTACHMENTS:

- A. Resolution calling for an election on cannabis distribution facilities tax
<https://banningca.gov/DocumentCenter/View/7462/ATT-A---Resolution-Calling-Election-on-Cannabis-Distribution-Facilities>
- B. Cannabis distribution tax measure
<https://banningca.gov/DocumentCenter/View/7463/ATT-B---Cannabis-distribution-tax-measure-ordinance-v-6>
- C. Resolution calling for an election regarding cannabis retailer cap
<https://banningca.gov/DocumentCenter/View/7464/ATT-C---Resolution-calling-for-election-re-cannabis-retailers>
- D. Cannabis retailer ballot measure confirming the cannabis retailer cap
<https://banningca.gov/DocumentCenter/View/7465/ATT-D---Ordinance-maintaining-cap-on-cannabis-retailers-v-3>
- E. Cannabis retailer ballot measure increasing the cannabis retailer cap
<https://banningca.gov/DocumentCenter/View/7466/ATT-E---Ordinance-regarding-cap-on-cannabis-retailers-v-3>

Approved by:



Douglas Schulze
City Manager