



## AGENDA

### SPECIAL MEETING (CLOSED SESSION) AND REGULAR MEETING OF THE BANNING CITY COUNCIL CITY OF BANNING, CALIFORNIA

**Tuesday, September 22, 2020**

**4:00 P.M. Closed Session Meeting**

**5:00 P.M. Regular Meeting**

**Council Chamber**

**99 E. Ramsey Street**

**and via Video/Teleconference**

*The following information comprises the agenda for the closed session and 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/87415277765?pwd=dFVSOFBuMGpSeTBSREtPNytXYnhSQT09>

**Meeting ID: 874 1527 7765**

**Password: 870511**

One tap mobile: +16699009128,, 87415277765#

Dial in: +1 669 900 9128 US

Meeting ID: 874 1527 7765

Find your local number: <https://us02web.zoom.us/u/kdrYMKxbB>

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

*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 4:00 P.M. SPECIAL MEETING**

### **II. CLOSED SESSION**

- II.1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9  
Name of case: Robertson's Ready Mix, Ltd. v. City of Banning, et al., Case No. RIC 1513475
  
- II.2. CONFERENCE WITH LEGAL COUNCIL - ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9: Two potential cases

### **III. ADJOURN SPECIAL MEETING**

## **I. CALL TO ORDER REGULAR MEETING - 5:00 P.M.**

- I.1. Invocation
- I.2. Pledge of Allegiance
- I.3. Roll Call - *Council Members Happe, Pingree, Wallace, Welch and Mayor Andrade*

### **II. AGENDA APPROVAL**

- II.1. Approve Agenda

### **III. PRESENTATIONS**

- III.1. Mayor's Special Recognitions
- III.2. Proclamation Designating October as Public Power Month.....7

### **IV. REPORT ON CLOSED SESSION**

City Attorney

## **V. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, CITY COUNCIL COMMITTEE, CITY MANAGER, AND CITY ATTORNEY REPORTS**

### **PUBLIC COMMENTS –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 three 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

V.1. Appoint one Council Member to Represent the City of Banning as a Member of the San Gorgonio Pass Regional Water Alliance ..... **9**

## CITY MANAGER REPORT

### CITY ATTORNEY REPORT

### CITY COUNCIL COMMITTEE REPORTS

## **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/Successor Agency wishes to remove an item for separate consideration.)*

**Recommendation:** Approve Consent Items VI.1 – VI.14

VI.1. Minutes of the September 8, 2020 City Council Meetings ..... **11**

VI.2. Public Works Capital Improvement Project Tracking List ..... **13**

VI.3. List of Contracts Approved Under the City Manager's Signature Authority in the Month of August 2020..... **15**

VI.4. Ordinance 1568, Approving Zone Change (Zoning Amendment) 18-3504 to Pre-Zone two Parcels Located East of Hathaway Street and North of Wilson Street (APNs 532-030-008 and 532-030-009) as Business Park, and Making Findings Pursuant to CEQA..... **17**

VI.5. Fire Department Statistics for August 2020 ..... **19**

VI.6. Cash, Investments and Reserve Report for the Month of August 2020 ..... **21**

VI.7. Ordinance 1569, Amending Chapter 2.28 ("Planning Commission") of the Banning Municipal Code to Update Planning Commissioner Terms, Duties, and Responsibilities ..... **23**

VI.8. Resolution 2020-110, Awarding a Professional Services Agreement to Cornerstone C.C.H.D. in the Amount of \$900,000 for Electrical Engineering Services through Fiscal Year 2023 with the Option to Renew for Two Additional Single Years ..... **25**

VI.9. Accounts Payable and Payroll Warrants Issued in the Month of August 2020. .... **29**

VI.10.	Amendments to the Service Agreements with JP Nelson & Sons Construction, Inc. and DeGuire Weed Abatement, Inc. for Weed Abatement Services .....	31
VI.11.	Police Statistics for August 2020 .....	33
VI.12.	Resolutions 2020-119, 2020-9 UA and 2020-6 SA, Approving an Amendment to the Fiscal Year 2020-21 Budget for Encumbrance Carryovers and Continuing Appropriations of Unexpended Fiscal Year 2020-21 Appropriations.....	35
VI.13	Resolution 2020-10 UA, Approving Amendment No. 4 to the Maintenance and Operations Agreement with Suez Water Environmental Services, Inc. to Extend the Term of the Agreement .....	39
VI.14	Resolution 2020-116 Amending Compensation and Certain Benefits and Adopting a Furlough Program for City Department Directors .....	43

## **VII. PUBLIC HEARINGS**

VII.1.	Ordinance 1563 approving Zone Change 17-3502 and Resolution No. 2020-118, approving General Plan Amendment 17-2502, Conditional Use Permit 16-8007, Reclamation Plan Amendment 17-9504, and Environmental Assessment 17-1503 for the proposed expansion of the existing Robertson's Ready Mix banning mine to incorporate 39.42 additional acres in the Industrial – Mineral Resources and Very Low Density Residential Land Use Designations of City of Banning, California (APNs: 534-100-001 thru 008; 534-110-001 thru 005; 534-050-003; 534-084-001 & 002; 534-110-005; 534-213-002; 534-230-001 & 002; 534-241-003 & 004; 534-242-001; 534-273-002, 003, 006); and Ordinance 1570 approving Development Agreement 12 and Resolution 2020-120 setting the street vacation application for a public hearing before the City .....	45
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*(Staff Report: Adam Rush, Community Development Director)*

**Recommendation:** 1) Introduce the first reading of Ordinance 1563 approving Zone Change 17-3502; and 2) Introduce the first reading of Ordinance 1570 approving Development Agreement 12; and 3) Adopt Resolution 2020-118 approving General Plan Amendment 17-2502; Conditional Use Permit 16-8007; Reclamation Plan Amendment 17-9504, and Environmental Assessment 17-1503, and find the Project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15163; and 4) Adopt Resolution 2020-120 declaring the City's intention to vacate portions of Gillman, Theodore, Hathaway, and Harlow Streets, Summit Dr., and Repllier Rd.

## **VIII. REPORTS OF OFFICERS**

VIII.1.	Design for the Proposed Entry Monument Sign on East Ramsey Street.....	53
	<i>(Staff Report: Art Vela, Director of Public Works)</i>	
	<b>Recommendation:</b> Discuss and select one design option for the proposed entry monument sign on east Ramsey Street.	
VIII.2.	Resolution 2020-117, Adopting a Mitigated Negative Declaration (MND), Mitigation Monitoring and Reporting Program (MMRP) for EA 20-1504, Conditional Use Permit 19-8008 and Design Review 19-7014 for Constructing and Operating an Indoor Cannabis Cultivation and Distribution Facility on 1.8 Acres of a 4-Acre Parcel Located at the Southeast Corner of West Lincoln Street and South 8th Street (Hwy 243).....	47
	<i>(Staff Report: Adam Rush, Community Development Director)</i>	
	<b>Recommendation:</b> Adopt Resolution 2020-117, 1) Finding that in accordance with the California Environmental Quality Act (CEQA) that all environmental impacts have been evaluated and disclosed through the adoption of a MND and MMRP for the Project; and 2) Approving Conditional Use Permit (CUP) 19-8008 and Design Review 19-7014, a proposal to construct and operate an indoor cannabis cultivation and distribution facility, subject to the recommended conditions of approval.	
VIII.3.	Banning Sportsman's Club Lease Agreement.....	65
	<i>(Staff Report: Doug Schulze, City Manager)</i>	
	<b>Recommendation:</b> Authorize the City Manager to execute a lease agreement with Banning Sportsman's Club, Inc. for property at 260 Mias Canyon Road.	

## **IX. DISCUSSION ITEMS**

IX.1.	Discussion on the Need for an Ordinance to Govern the Use of Golf Carts on Public Streets.....	67
	<i>(Staff Report: Art Vela, Director of Public Works)</i>	
	<b>Recommendation:</b> Discuss the need of an ordinance that would govern the use of golf carts on selected streets throughout the City of Banning	
IX.2.	Update and Discussion of the Proposition 218 Ballot process for Landscape Maintenance District No. 1 .....	69
	<i>(Staff Report: Doug Schulze, City Manager)</i>	
	<b>Recommendation:</b> Discuss the next steps in the Proposition 218 process.	

## **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
6. Shopping Cart Ordinance Update

## **XI. ADJOURNMENT**

**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 regular meeting 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 three 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](http://www.banningca.gov) or via email or regular mail by calling (951) 922-3102 or emailing [sdelafuente@banningca.gov](mailto:sdelafuente@banningca.gov) in the Office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m. and requesting a copy.*



**CITY OF BANNING  
OFFICE OF THE  
MAYOR**



**proclamation**

**WHEREAS**, we, the citizens of the City of Banning, place high value on local choice over community services and therefore have chosen to operate a community-owned, not-for-profit electric utility and, as customers and owners of our electric utility, have a direct say in utility operations and policies; and

**WHEREAS**, City of Banning Electric Utility provides our homes, businesses, schools, and social service and local government agencies with safe, reliable, and efficient electricity employing sound business practices designed to ensure the best possible service at not-for-profit rates; and

**WHEREAS**, City of Banning Electric Utility is a valuable community asset that contributes to the well-being of local citizens through energy efficiency, customer service, environmental protection, economic development, and safety awareness; and

**WHEREAS**, City of Banning Electric Utility is a dependable and trustworthy institution whose local operation provides many consumer protections and continues to make our community a better place to live and work, and contributes to protecting the global environment; and

**WHEREAS**, the City of Banning Electric Utility will continue to work to bring low-cost, safe, reliable electricity to community homes and businesses just as it has since 1922, the year when the utility was created to serve all the citizens of the City of Banning; and

**WHEREAS**, the month of October shall be designated Public Power Month to recognize City of Banning Electric Utility for its contributions to the community and to educate customer-owners, policy makers, and employees on the benefits of public power; and

**WHEREAS**, our community joins hands with more than 2,000 other public power systems in the United States in this celebration of public power, which put our residents, businesses, and the community before profits.

**NOW THEREFORE**, the City of Banning City Council do hereby proclaim and designate the Month of October 2020, as Public Power Month.

**ATTEST:**

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*Daniela Andrade, Mayor*

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*Sonja De La Fuente, Deputy City Clerk*

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**CITY OF BANNING  
CITY COUNCIL**

**TO:** **CITY COUNCIL**

**FROM:** **Douglas Schulze, City Manager**

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

**MEETING DATE:** **September 22, 2020**

**SUBJECT:** **Appoint a Council Member to Represent the City of Banning as a Member of the San Gorgonio Pass Regional Water Alliance**

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**RECOMMENDED ACTION:**

Staff recommends that City Council nominate and appoint a City Councilmember to represent the City of Banning as a member of the San Gorgonio Pass Regional Water Alliance.

**BACKGROUND:**

On November 6, 2012, by action of the Riverside County Board of Supervisors upon recommendation by Fifth District Supervisor Marion Ashley, a Pass Water Policy Panel, comprised of representatives of the San Gorgonio Pass Area, was created to identify challenges in water supply and water quality in the region.

The group, the San Gorgonio Pass Regional Water Alliance ("Water Alliance"), has set the goal of improving coordination, collaboration and communication among local, state and federal governments and water purveyors and other water resource stakeholders in the San Gorgonio Pass region to achieve greater efficiency and effectiveness in delivering water supplies.

The Water Alliance is includes 13 agencies: City of Banning, Banning Heights Mutual Water Company, Beaumont Basin Watermaster, Beaumont Cherry Valley Water District, Cabazon Water District, City of Calimesa, County of Riverside, High Valleys Water District, Mission Springs Water District, Morongo Band of Mission Indians, San Gorgonio Pass Water Agency, South Mesa Mutual Water Company and Yucaipa Valley Water District.

The Water Alliance regularly discusses topics such as the California Water Plan Update, Integrated Regional Water Management Plans, Urban Water Management Plans, water

Staff Report: Appointment to San Gorgonio Pass Water Alliance

September 22, 2020

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conservation programs, storm water resources, salinity management and the State Water Project.

The Alliance meets on the fourth Wednesday of every other month at the City of Banning at 5 p.m. The next meeting is scheduled for October 28, 2020.

**JUSTIFICATION:**

The City of Banning currently does not have an elected official representing the City of Banning at the Water Alliance meetings.

**FISCAL IMPACT:**

There is no fiscal impact related to this item.

**ATTACHMENTS:**

1. San Gorgonio Regional Water Alliance MOU

<https://banningca.gov/DocumentCenter/View/7879/Attachment-1-2014-MOU>

Approved by:



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Douglas Schulze  
City Manager



**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL  
**FROM:** Douglas Schulze, City Manager  
**PREPARED BY:** Sonja De La Fuente, Deputy City Clerk  
**MEETING DATE:** September 22, 2020  
**SUBJECT:** Minutes of the September 8, 2020, City Council Meetings

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**RECOMMENDED ACTION:**

Approve the Minutes of the September 8, 2020 City Council Meetings.

**OPTIONS:**

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

**ATTACHMENTS:**

1. Minutes of the September 8, 2020, City Council Meetings  
<https://banningca.gov/DocumentCenter/View/7861/Minutes>

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:** September 22, 2020  
**SUBJECT:** Public Works Capital Improvement Project Tracking List

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### **RECOMMENDED ACTION:**

This is informational only; receive and file report.

### **BACKGROUND:**

There are several planning, environmental, design and construction contracts that have been approved by City Council and/or the City Manager's office that are being managed by the Public Works Department. In an effort to keep the City Council and the public informed of the progress made and current status of each project, staff has prepared and will continue to update the attached Public Works CIP Tracking List. The list will be presented to City Council on a monthly basis.

### **FISCAL IMPACT:**

None

### **ATTACHMENTS:**

1. CIP Status List <https://banningca.gov/DocumentCenter/View/7873/Attachment-1-CIP-Tracking-September>

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:** Laurie Sampson, Executive Assistant

**MEETING DATE:** September 22, 2020

**SUBJECT:** Receive and File Contracts Approved Under the City Manager's Signature Authority for the Month of August 2020

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**RECOMMENDATION:**

Receive and file contracts approved under the City Manager's signature authority for the Month of August 2020.

**BACKGROUND:**

City Council requested regular reports of contracts signed under the City Manager's signature authority of \$25,000 or less.

**ATTACHMENT:**

1. List of Contracts August 2020  
<https://banningca.gov/DocumentCenter/View/7863>List-of-Contracts>

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

**MEETING DATE:** September 22, 2020

**SUBJECT:** Ordinance 1568, approving Zone Change 18-3504 to Pre-Zone two Parcels Located East of Hathaway Street and North of Wilson Street (APNs 532-030-008 and 532-030-009) as Business Park, and Making Findings Pursuant to CEQA

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### **RECOMMENDED ACTION:**

Staff Recommends the City Council:

Waive further reading and adopt Ordinance 1568 approving Zone Change 18-3504.

### **BACKGROUND:**

On September 8, 2020, City Council conducted a Public Hearing and Ordinance 1568 passed its first reading.

### **OPTIONS:**

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

### **ATTACHMENT:**

1. Ordinance 1568 <https://banningca.gov/DocumentCenter/View/7877/Banning---Ordinance-No-1568-ZC-18-3504-EA-18-1509>

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:** Todd Hopkins, Division Chief  
Laurie Sampson, Executive Assistant

**MEETING DATE:** September 22, 2020

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**SUBJECT:** Receive and File Fire Department Statistics for August 2020

### **RECOMMENDED ACTION:**

Receive and file Fire Department statistics for August 2020.

### **BACKGROUND:**

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

### **FISCAL IMPACT:**

None

### **ATTACHMENTS:**

1. Fire Statistics for August 2020  
<https://banningca.gov/DocumentCenter/View/7878/Banning-August-2020-Fire-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:** Suzanne Cook, CGFM, Deputy Finance Director  
**MEETING DATE:** September 22, 2020  
**SUBJECT:** Cash, Investments and Reserve Report for the Month of August 2020

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### **RECOMMENDATION:**

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

### **CASH AND INVESTMENT SUMMARY:**

Description	Prior Month	Current Month
<b>Funds Under Control of the City</b>		
Cash		
Cash on Hand	\$ 4,155.00	\$ 4,155.00
Checking and Savings Accounts	\$ 6,819,237.44	\$ 7,330,907.17
Investments		
LAIF	\$ 42,519,338.64	\$ 39,519,338.64
Brokerage	\$ 27,425,415.59	\$ 27,425,481.25
<b>Total Funds Under Control of the City</b>	<b>\$ 76,768,146.67</b>	<b>\$ 74,279,882.06</b>
<b>Funds Under Control of Fiscal Agents</b>		
US Bank		
Restricted Bond Project Accounts	\$ 14,801,389.91	\$ 14,801,564.93
Restricted Bond Accounts	\$ 4,820,405.13	\$ 4,869,764.71
Union Bank & SCPPA		
Restricted Funds	\$ 4,136,420.57	\$ 4,036,894.02
<b>Total Funds Under Control of Fiscal Agents</b>	<b>\$ 23,758,215.61</b>	<b>\$ 23,708,223.66</b>
<b>Total Funds</b>	<b>\$ 100,526,362.28</b>	<b>\$ 97,988,105.72</b>

### **RESTRICTED, ASSIGNED, COMMITTED AND RESERVED SUMMARY:**

Staff Report: August 2020 Investments and Reserve Report

September 22, 2020

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Description	Prior Month	Current Month
<b>Total Funds</b>	\$ 100,526,362.28	\$ 97,988,105.72
Restricted Funds	41,881,242.76	\$ 43,190,875.78
Assigned Funds - Specific Purpose	8,881,339.00	\$ 8,881,339.00
Committed Funds - Specific Purpose	3,525,858.25	\$ 3,525,858.25
Fund Balance Reserves	15,649,011.27	\$ 15,649,011.27
<b>Total Restricted, Assigned, Committed and Reserves</b>	<b>\$ 69,937,451.28</b>	<b>\$ 71,247,084.30</b>
<b>Operating Cash - Unrestricted Reserves</b>	<b>\$ 30,588,911.00</b>	<b>\$ 26,741,021.42</b>
Less Accounts held in Investments	\$ 27,425,415.59	\$ 27,425,481.25
Liquid Cash	\$ 3,163,495.41	\$ (684,459.83)

**ATTACHMENTS:**

1. Cash, Investment and Reserve Report August 2020  
<https://banningca.gov/DocumentCenter/View/7870/Attachment-1---Cash-Investment-and-Reserve-Report---August-2020>
2. Investment Report August 2020  
<https://banningca.gov/DocumentCenter/View/7871/Attachment-2---Investment-Report-August-2020>
3. City of Banning Broker Investment Report – August 2020  
<https://banningca.gov/DocumentCenter/View/7872/Attachment-3---Broker-Investment-Report-August-2020>
4. LAIF / PMIA Performance Report  
[https://banningca.gov/DocumentCenter/View/7868/Attachment-4---PMIA-LAIF\\_Performance-Report---August-2020](https://banningca.gov/DocumentCenter/View/7868/Attachment-4---PMIA-LAIF_Performance-Report---August-2020)
5. LAIF Market Valuation Report August 2020  
<https://banningca.gov/DocumentCenter/View/7869/Attachment-5---LAIF-Market-Valuation-August-2020>

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

Approved by:



Douglas Schulze, City Manager



## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**MEETING DATE:** September 22, 2020

**SUBJECT:** Ordinance 1569, Amending Chapter 2.28 ("Planning Commission") of the Banning Municipal Code.

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### **RECOMMENDED ACTION:**

Waive further reading and adopt Ordinance 1569, amending Chapter 2.28 ("Planning Commission") of the Banning Municipal Code to update Planning Commissioner terms, vacancies, duties, and responsibilities.

### **BACKGROUND:**

City Council directed the City Manager to draft amendments to Chapter 2.28 of the Banning Municipal Code to clarify planning commission member terms, vacancies, duties and responsibilities. Ordinance No. 1569 assigns each planning commission position a number and date of expiration for terms. All terms will expire on January 31 and new terms will start on February 1. Terms will remain staggered every two years and run concurrent with city elections.

### **JUSTIFICATION:**

At some point in the past, appointment to vacant partial terms resulted in the date of termination shifting so some positions expired in February and other in May. Amendment of the Banning Municipal Code is intended to provide more clarification for appointments to avoid confusion.

### **FISCAL IMPACT:**

There is no fiscal impact associated with Ordinance 1569.

**OPTIONS:**

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

**ATTACHMENTS:**

1. Ordinance 1569 <https://banningca.gov/DocumentCenter/View/7862/Ordinance-Amending-Planning-Commission-Terms-and-Duties>

Approved by:



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Douglas Schulze  
City Manager



**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** **CITY COUNCIL**

**FROM:** **Douglas Schulze, City Manager**

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

**MEETING DATE:** **September 22, 2020**

**SUBJECT:** **Resolution 2020-110, Awarding a Professional Services Agreement to Cornerstone C.C.H.D. in the Amount of \$900,000 for Electrical Engineering Services through Fiscal Year 2023 with the Option to Renew for Two Additional Single Years**

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**RECOMMENDED ACTION:**

City Council adopt Resolution 2020-110:

1. Approving the award of a Professional Services Agreement to Cornerstone C.C.H.D. in the amount of \$900,000 for electrical engineering/design services through June 30, 2023 with the option to renew for two (2) additional single years.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement with Cornerstone C.C.H.D.
3. Authorizing the City Manager or his designee to execute the Professional Services Agreement with Cornerstone C.C.H.D. valid through June 30, 2023 with the option to renew for two (2) additional single years.

**BACKGROUND:**

The Banning Electric Utility Department (BEU) staff currently administers an array of services including management of capital improvement and infrastructure projects related to the design and construction of electric power distribution systems. In addition to managing these projects, staff is also responsible for completing design review and inspections for various projects completed by BEU and the City's Public Works

Department. In order to maintain an acceptable level service, BEU must acquire professional engineering services to assist with completing design engineering for the Utility's capital improvement program.

On August 8, 2019, BEU solicited a request for qualifications (RFQ) 19-044 for On-Call Electrical Engineering Services and established a list of four pre-qualified electrical engineering firms approved by City Council on December 10, 2019; Resolution No. 2019-148.

Once the On-Call list had been solidified, BEU solicited two Requests for Proposals (RFPs) to the pre-approved On-Call Electrical Engineering Vendor list for two projects in which Cornerstone C.C.H.D. was awarded as the lowest responsive and responsible bidder for both solicitations. Additionally, BEU has requested and secured an emergency contract with Cornerstone C.C.H.D. for distribution reconstruction design related to the Apple Fire which occurred during early August 2020.

The scope of services requested will include but not be limited to project management, engineering and design, environmental review and permitting, assistance with procurement of materials and equipment, and engineering services during construction.

**JUSTIFICATION:**

BEU has an aggressive capital improvement program budgeted for the FY 2020-21 and FY 2021-22 and has recognized a need for additional resources to complete electrical engineering design and other infrastructure improvement support.

In addition to being awarded BEU's two engineering contracts related to Resolution 2019-148 and serving as the engineer for the Apple Fire restoration, Cornerstone C.C.H.D. has worked with BEU over the past two years as Pardee-Atwell's electric distribution consultant and is extremely familiar with BEU's design and construction standards thru this working relationship

**FISCAL IMPACT:**

BEU funds within the Electric Fund are available amongst several projects, to include Capital projects and funds, and will be determined at the time of purchase order requisition for each specific project. Total construction costs over three-year contract shall not exceed \$900,000. The consultant will invoice the City on a monthly basis, with an itemized list of work performed, along with delivery of the specific work products.

**ALTERNATIVE:**

Do not approve Resolution 2020-110 as presented and staff would proceed with an open and formal Request for Proposals for individual projects in order to obtain the required services.

**ATTACHMENTS:**

1. Resolution 2020-110  
<https://banningca.gov/DocumentCenter/View/7888/Attachment-1---Reso-2020-110-Award-Cornerstone-Contract>
2. Draft Professional Services Agreement  
[https://banningca.gov/DocumentCenter/View/7889/Attachment-2---Cornerstone\\_Professional-Services-Agreement\\_Draft](https://banningca.gov/DocumentCenter/View/7889/Attachment-2---Cornerstone_Professional-Services-Agreement_Draft)

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:** Suzanne Cook, CGFM, Deputy Finance Director

**MEETING DATE:** September 22, 2020

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

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### **RECOMMENDATION:**

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

### **WARRANT SUMMARY:**

Description	Payment #	Amount	Total Amount
<b>Checks:</b>			
Checks Issued during Month	175060 - 175424	\$ 2,201,069.22	
Voided / Reissue Check		\$ 622.79	
	<b>Check Total</b>		<b>\$ 2,200,446.43</b>
	<b>Wires Total</b>	1034 - 1037	<b>\$ 3,646,375.40</b>
<b>ACH payments:</b>			
Payroll Direct Deposit	8/14/2020	\$ 419,097.19	
Payroll Direct Deposit	8/28/2020	\$ 402,063.36	
Other Payments		\$ 914,711.66	
	<b>ACH Total</b>		<b>\$ 1,735,872.21</b>
<b>Payroll Checks:</b>			
Payroll - Regular	8/14/2020	\$ 3,194.58	
Payroll - Regular	8/28/2020	\$ 2,403.63	
	<b>Payroll Check Total</b>		<b>\$ 5,598.21</b>
<b>Total Warrants Issued for August 2020</b>			<b>\$ 7,588,292.25</b>

Staff Report: Accounts Payable and Payroll Warrants – August 2020

September 22, 2020

Page 2 of 2

**ATTACHMENTS:**

1. Fund List <https://banningca.gov/DocumentCenter/View/7866/Attachment-1---Fund-List>
2. Warrant Report August 2020  
<https://banningca.gov/DocumentCenter/View/7867/Attachment-2---Warrant-Report-August-2020>
3. Warrant Report Detail August 2020  
<https://banningca.gov/DocumentCenter/View/7864/Attachment-3---Warrant-Report-Detail-August-2020>
4. Voided Check Log, Payroll Log & Registers – August 2020  
<https://banningca.gov/DocumentCenter/View/7865/Attachment-4---Void-Check-Log---Payroll-Log---Payroll-Registers>

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

Approved by:



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Douglas Schulze  
City Manager



## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Matthew Hamner, Chief of Police  
Debbie Shubin, Code Enforcement Officer

**MEETING DATE:** September 22, 2020

**SUBJECT:** Amendments to Service Agreements with JP Nelson & Sons Construction, Inc., and DeGuire Weed Abatement, Inc., for Weed Abatement Services

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### **RECOMMENDED ACTION:**

City Council approve an Amendment to the Service Agreement with JP Nelson & Sons Construction, Inc., in an amount not-to-exceed \$20,000 annually and an Amendment to the Service Agreement with DeGuire Weed Abatement, Inc., in an amount not-to-exceed \$20,000 annually for Weed Abatement Services for Fiscal Year 2020/2021 and Fiscal Year 2021/2022 and Authorize the City Manager to execute the Weed Abatement Service Agreements with JP Nelson & Sons Construction, Inc., and DeGuire Weed Abatement, Inc., for Fiscal Year 2020/2021 and Fiscal Year 2021/2022.

### **GOAL STATEMENT:**

Weed Abatement Services assist the City in meeting Goal 4 – Public Health & Safety.

### **BACKGROUND:**

Currently, Staff contracts with two (2) "Weed Abatement Service" contractors J.P. Nelson & Sons Construction, Inc and DeGuire Weed Abatement. The scope of work for these services includes the removal of vegetation and debris from properties in the City of Banning to reduce fire danger and to be in compliance with the City's Municipal Codes.

The City entered into contract with both weed abatement contractor's FY 2019/2020 with the option to extend the contract through subsequent amendments not to exceed five (5) years.

**FISCAL IMPACT:**

Funding for Weed Abatement Services in the amount not-to-exceed \$40,000 will be available in the Fiscal Year 2020/2021 Code Enforcement budget. Upon proof, the Weed Abatement Service Contractor has completed an assigned abatement job, the City will pay the contractor for its services, per the City contract. The City will then seek reimbursement from the owner of the property on which the work was completed. No additional funds are required.

**OPTIONS:**

1. Approve the Amendments
2. Reject the Amendments. If rejected, effective July 1, 2020, the City's Code Enforcement Department will not be able to address Municipal City Code violations for overgrown vegetation on private property until such time that a vendor is selected through another RFP process.

**ATTACHMENTS:**

1. Resolution 2019-65 <https://banningca.gov/DocumentCenter/View/7882/1-RESO-2019-65>
2. Agreement with J.P. Nelson & Sons, Construction, Inc.  
<https://banningca.gov/DocumentCenter/View/7883/2-C00513-JP-NELSON-AND-SONS>
3. Amendment to the service agreement with J.P. Nelson & Sons Construction, Inc.  
<https://banningca.gov/DocumentCenter/View/7884/3-JP-NELSON-SONS-CONSTRUCTION-INC-AMENDMENT-1-DRAFT>
4. Agreement with DeGuire Weed Abatement  
<https://banningca.gov/DocumentCenter/View/7880/4-C00487-DEGUIRE-WEED-ABATEMENT>
5. Amendment to the service agreement with DeGuire Weed Abatement  
<https://banningca.gov/DocumentCenter/View/7881/5-DEGUIRE-WEED-ABATEMENT-INC-AMENDMENT-1-DRAFT>

Approved by:



Douglas Schulze  
City Manager



**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** **CITY COUNCIL**

**FROM:** **Douglas Schulze, City Manager**

**PREPARED BY:** **Matthew Hamner, Police Chief  
Sol Ivett Avila, Executive Assistant**

**MEETING DATE:** **September 22, 2020**

**SUBJECT:** **Receive and File Police Department Statistics for August 2020**

**RECOMMENDED ACTION:**

Receive and File August 2020 Police Statistics.

**BACKGROUND:**

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

**FISCAL IMPACT:**

None

**OPTIONS:**

1. Receive and File

**ATTACHMENT:**

1. Police Statistics August 2020  
<https://banningca.gov/DocumentCenter/View/7887/Police-Department-Stats-August-2020>

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:** Suzanne Cook, CGFM, Deputy Finance Director

**MEETING DATE:** September 22, 2020

**SUBJECT:** Resolution 2020-119, 2020-9 UA and 2020-6 SA, Approving an Amendment to the Fiscal Year 2020-21 Budget for Encumbrance Carryovers and Continuing Appropriations of Unexpended Fiscal Year 2020-21 Appropriations

---

### **RECOMMENDED ACTION:**

1. Approve Resolutions 2020-119, 2020-9 UA and 2020-6 SA, approving an amendment to the Fiscal Year 2020-21 Budget for encumbrance carryovers and continuing appropriations of unexpended Fiscal Year 2019-20 appropriations; and
2. Authorize the Administrative Services Director or designee, to make the necessary budget adjustments, appropriations and transfers.

### **BACKGROUND:**

The two-year budget for fiscal years 2020-21 and 2021-22 was adopted on June 23, 2020.

### **JUSTIFICATION:**

At the end of fiscal year 2019-20, in many cases, funds had been encumbered (i.e. committed via purchase order toward a specific item or project) but not yet expended. These items were included in the fund balances as encumbered items and roll into the new fiscal year in order to complete the project or order. In some cases, there were approved appropriations at the end of the fiscal year not eligible for encumbrance, these items were included as budget adjustments or continuing appropriations. Continuing appropriations and encumbrances were accounted for in available fund projections and

Staff Report: Continuing Appropriations

September 22, 2020

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thus will not impact previously presented 2020-21 fund balances. Allowing for the carryover of unexpended funds that are earmarked for specific purposes facilitates meeting the City's budgetary goals.

**FISCAL IMPACT:**

Previously approved, unspent appropriations as well as known other budgetary adjustments were accounted for in the FY 2020-21 available fund balance projections that were approved during the budget process. Therefore, funding for FY 2019-20 encumbrances and continuing appropriations will not impact previously presented projections. Totals presented in the detailed listings (Exhibit A) for the Operating and Capital Budgets are summarized in the following chart:

Authority	Type	Operating Budget	Capital Budget	Totals
<b>Budget Adjustments/Transfers</b>				
<b>City</b>				
BUA		\$92,971	\$6,598,544	\$6,691,515
SA				\$0
<b>Encumbrances</b>				
<b>City</b>				
BUA		\$1,477,373	\$3,764,433	\$5,241,806
SA		\$514,925	\$2,847,499	\$3,362,424
<b>Continuing Appropriations</b>				
<b>City</b>				
BUA		\$103,318	\$33,146	\$136,464
SA		\$232		\$232
<b>Totals</b>		<b>\$2,188,819</b>	<b>\$13,964,885</b>	<b>\$16,153,704</b>

**OPTIONS:**

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

**ATTACHMENTS:**

1. Resolution 2020-119 Including Exhibit A Operating & Capital Budget Detailed Listings of Continuing Appropriations and Encumbrances.  
<https://banningca.gov/DocumentCenter/View/7908/Att-1-Reso-2020-119>
2. Resolution 2020-9 UA Including Exhibit A Operating & Capital Budget Detailed Listings of Continuing Appropriations and Encumbrances  
<https://banningca.gov/DocumentCenter/View/7909/Att-2-REso-2020-9-UA>
3. Resolution 2020-6 SA Including Exhibit A Operating & Capital Budget Detailed Listings of Continuing Appropriations and Encumbrances  
<https://banningca.gov/DocumentCenter/View/7910/Att-3-Reso-2020-6-SA>

Approved by:



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Douglas Schulze  
City Manager

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## CITY OF BANNING BANNING UTILITY AUTHORITY REPORT

**TO:** **BANNING UTILITY AUTHORITY**

**FROM:** **Douglas Schulze, City Manager**

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

**MEETING DATE:** **September 22, 2020**

**SUBJECT:** **Adopt Resolution 2020-10 UA, Approving Amendment No. 4 to the Maintenance and Operations Agreement with Suez Water Environmental Services, Inc. to Extend the Term of the Agreement**

---

### **RECOMMENDED ACTION:**

Staff Recommends that the Banning Utility Authority adopt Resolution 2020-10 UA:

1. Approving the Fourth Amendment to the Maintenance and Operations Agreement with Suez Water Environmental Services, Inc. to extend the term of the agreement for two (2) additional years and thereby amending the termination date of the original Agreement to September 30, 2022 with the option to renew for an additional three (3) years.
2. Authorizing the City Manager or designee to make necessary budget adjustments, appropriations and transfers related Resolution 2020-10 UA.
3. Authorizing the City Manager to execute the Fourth Amendment to the Maintenance and Operations Agreement with Suez Water Environmental Services, Inc.

### **BACKGROUND:**

The City of Banning initially contracted out the operation and maintenance of the WWTP in September of 1993 to JMM Operational Services, Inc. (JMM) for a period of five (5) years. JMM was later acquired by United Water Services, Inc. (United Water) and subsequently the City renewed the agreement for an additional 5 years.

On September 23, 2003, under Resolution 2003-90, City Council approved a ten (10) year agreement for the Operation and Maintenance of the City of Banning Wastewater Treatment Plant to United Water for a monthly amount of \$41,500 and an annual total cost of \$498,000. On September 10, 2013, under Resolution No. 2013-16 UA, Banning Utility Authority approved a five (5) year contract term extension (first amendment to the 2003 contract) with United Water to September 30, 2018.

In May of 2016, United Water notified the City of its name change to Suez Water Environmental Services, Inc. (Suez) confirming that employees and business practices would remain the same and that operations would remain unchanged.

On September 10, 2018, the Banning Utility Authority approved the second amendment to the 2003 contract (“Current Agreement”), extending the term for one (1) additional year and increasing the compensation to account for prevailing wage rates and Consumer Price Index (CPI).

On July 9, 2019, the Banning Utility Authority approved the third amendment to the Current Agreement, extending the term for one (1) additional year to September 30, 2020.

Since outsourcing the operations and maintenance of the WWTP in 1993, the City has maintained compliance with the Waste Discharge Requirements (WDR) issued to the City by the California Regional Water Quality Control Board (RWQCB). Suez has also contributed to the City being the recipient of several regional awards such as, the WWTP Plant of the Year in 2007 (less than 5 MGD) and 2nd place for this same award in 2008. Additionally, in 2008 the WWTP received a safety award from the Colorado River Basin Section for its operation procedures. Again in 2016, the WWTP received the Plant of the Year (less than 5 MGD) award.

### Scope of Work

Suez, under the Current Agreement, is responsible for the operation and maintenance of the City's WWTP and four wastewater lift stations located throughout the City. As stated in the Current Agreement, Suez is responsible for several maintenance activities including treatment plant equipment maintenance, building maintenance and site maintenance. Suez is responsible for providing five (5) full-time employees to staff the WWTP seven (7) days a week, eight (8) hour days including providing the City with twenty-four (24) hour, seven (7) days per week, on-call operational coverage. In addition to the five (5) full time employees Suez also provides technical assistance utilizing their professional in-house resources for various wastewater programs such as pre-treatment, industrial waste discharges, preventative maintenance and capital improvement planning.

Further details of the Suez' contract obligations are identified in the Current Agreement included herein as Attachment 2.

**JUSTIFICATION:**

Since 1993 JMM/United Water/Suez has proven to be a responsible contractor capable of effectively and successfully managing the operation and maintenance of the City's WWTP. The existing contract is set to expire on September 30, 2020 and it is essential that the City preserve the continued operation and maintenance of the WWTP.

The fourth amendment, if approved, will allow the continued operation and maintenance of the City's WWTP until September 30, 2022, with the option to renew for three additional years.

**FISCAL IMPACT:**

The Wastewater Division Operational Fund, Account No. 680.8000-454.23-38 (contracted wastewater plant services) will continue to fund the Operation and Maintenance Agreement. The base annual agreement is for an amount of \$766,332. The current agreement allows for annual increase reflective of the CPI increase.

**ALTERNATIVE:**

Reject Resolution 2020-10 UA. If rejected, the Current Agreement provides the City with three hundred (300) days to replace Suez.

**ATTACHMENTS:**

1. Resolution 2020-10 UA  
<https://banningca.gov/DocumentCenter/View/7875/Attachment-1-Resolution-2020-10-UA-Suez-Amend-4>
2. Current Agreement for O&M of the City's WWTP with Amendments  
<https://banningca.gov/DocumentCenter/View/7876/Attachment-2-Current-Agreement-Including-Amendments-1-2-3>
3. Amendment No. 4 <https://banningca.gov/DocumentCenter/View/7874/Attachment-3-Amendment-4---Suez-OM-Agreement---Wastewater-Treatment-Plant>

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:** Jennifer Christensen, Administrative Services Director

**MEETING DATE:** September 22, 2020

**SUBJECT:** Adopt Resolution 2020-116 Amending Compensation and Certain Benefits and Adopting a Furlough Program for City Department Director

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### **RECOMMENDATION:**

That the City Council:

1. Adopt Resolution No. 2020-116 Amending Compensation and Certain Benefits and Adopting a Furlough Program for City Department Director, and;
2. Authorize the City Manager to execute any contract amendments or documents necessary to implement the proposed changes to compensation and benefits for all directors and the Chief of Police.

### **JUSTIFICATION:**

In order to address the city's structural deficit and offset impacts of the economic downturn caused by the pandemic, the city's executive staff reviewed a proposal to include 80 hours (2 weeks) of furlough and a suspension on leave balance buyouts and an annual cost of living adjustment for fiscal year ending June 30, 2021.

Executive staff has agreed to the proposed structure as well as a waiver of a 3% COLA (cost of living adjustment) for the period from July 1, 2020-June 30, 2021. The cost savings are estimated to be approximately \$200,000 for the fiscal year.

**BACKGROUND:**

The City maintains labor contracts with its executive staff including the City Manager, the Chief of Police, and all department directors. On or about April 9, 2019 the City Council of the City of Banning passed Resolution 2019-41, replacing Resolution 2017-101 and changing the maximum level of benefits and other compensation for Directors.

The attached Resolution 2020-116 provides for a temporary suspension of certain provisions previously adopted as part of Resolution 2019-41 for the current fiscal year ending June 30, 2021 and reinstates all benefits effective July 1, 2021.

Included in the resolution is a provision to ensure that suspension of leave accrual buyouts will not result in loss of existing or vested leave balances for directors for the fiscal year ending June 30, 2021.

**FISCAL IMPACT:**

The proposed suspensions of the cost of living increase and leave accrual cash outs and implementation of an 80-hour furlough will generate a savings of approximately \$200,000 for FY 2020-2021.

**OPTIONS:**

1. Adopt Resolution No. 2020-116 as recommended, or
2. Do not approve and provide alternative direction.

**ATTACHMENTS:**

Resolution No. 2020-116

<https://banningca.gov/DocumentCenter/View/7901/Resolution-2020-116-Amendment-to-Executive-Contracts>

Approved by:



Doug Schulze  
City Manager



## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 22, 2020

**SUBJECT:** Ordinance 1563 approving Zone Change 17-3502 and Resolution No. 2020-18, approving General Plan Amendment 17-2502; Conditional Use Permit 16-8007; Reclamation Plan Amendment 17-9504; and Environmental Assessment 17-1503 for the proposed expansion of the existing Robertson's Ready Mix banning mine to incorporate 39.42 additional acres in the Industrial – Mineral Resources and Very Low Density Residential Land Use Designations of City of Banning, California (APNs: 534-100-001 thru 008; 534-110-001 thru 005; 534-050-003; 534-084-001 & 002; 534-110-005; 534-213-002; 534-230-001 & 002; 534-241-003 & 004; 534-242-001; 534-273-002, 003, 006).

Ordinance 1570 approving Development Agreement 12 and Resolution 2020-119 setting the street vacation application for a public hearing before the City Council.

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### **DIRECTION OF PLANNING COMMISSION / RECOMMENDED ACTION:**

Staff recommends the City Council:

1. Introduce the first reading of Ordinance 1563 approving Zone Change 17-3502; and
2. Introduce the first reading of Ordinance 1570 approving Development Agreement 12; and,
3. Adopt Resolution 2020-118 approving General Plan Amendment 17-2502; Conditional Use Permit 16-8007; Reclamation Plan Amendment 17-9504, and Environmental Assessment 17-1503, and find the Project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15163; and,

September 22, 2020

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4. Adopt Resolution 2020-119 declaring the City's intention to vacate portions of Gillman, Theodore, Hathaway, and Harlow Streets, Summit Dr., and Repplier Rd.

## **APPLICANT INFORMATION:**

Project Location 1990 N. Hargrave Street (Entrance at the terminus of North Hathaway Street)

APN Information: 534-100-001 thru 008; 534-110-001 thru 005; 534-050-003;  
534-084-001 & 002; 534-110-005; 534-213-002; 534-230-  
001 & 002; 534-241-003 & 004; 534-242-001; 534-273-002,  
003, 006

Project Applicant /  
Property Owner: Robertson's Ready Mix  
Anthony Edwards  
P.O. Box 3200  
Corona, CA 92882

Property Owner: Matich Corporation  
Robert Matich  
P.O. Box 10  
Highland, CA 92346

Project Representative: EnviroMine, Inc.  
Warren Coalson  
3511 Camino Del Rio South, Suite 403  
San Diego, CA 92108

## REQUEST:

The Robertson's Ready Mix Banning Mine is requesting approval for their expansion project that includes a General Plan Amendment (GPA) and Zone Change (ZC) for 17-acres at the northwest corner of the mine, from Low Density Residential (LDR) to Industrial Mineral Resources (I-MR), a Conditional Use Permit (CUP), to expand the mining area to encompass rezoned 17-acres and an additional 23-acres of land to the south (currently owned by Matich Corporation) to accommodate a 24-hour operation of an onsite ready mix concrete batch plant and associated support and maintenance facility on a total of approximately 208 acres. There is an associated Reclamation Plan (RCL) Amendment to combine two previously approved RCLs; and including the aforementioned 17-acres at the northwest corner. There is also a Development Agreement that contemplates the mining and reclamation of the Quarry consistent with these entitlements, as well as a request to vacate certain paper streets within the Quarry area, more particularly identified in Exhibits C of the attached Resolutions.

### **BACKGROUND:**

The project was reviewed by the Planning Commission at a public hearing on June 3, 2020. The Planning Commission heard public comments and after some discussion, a motion to approve the project was taken but failed to pass on a 2-2 vote. A second motion to continue the project and directed staff to prepare a resolution to deny the project was taken and passed on a 4-0 vote. Staff prepared the Resolution 2020-13 recommending that the City Council deny General Plan Amendment 17-2502, Zone Change 17-3502, Conditional Use Permit 16-8007 and Reclamation Plan Amendment 17-9504. The project was also reviewed by the Planning Commission at a public hearing on July 8, 2020. At said hearing, the Commission continued the item and hearing to this September 2, 2020 meeting of the Commission. In the interim period, staff, in consultation with the City Attorney's office, has updated the provided to reflect to the request for a vacation of certain paper streets, as well as the proposed Development Agreement.

### **HISTORY:**

The Robertson's Ready Mix Banning Mine is located at the northeastern portion of the City of Banning. It is an existing aggregate (sand and gravel) mine and processing plant owned and operated by Robertson's Ready Mix (Robertson's). The mine has been in continuous operation since the early 1900's and consists of the West Pit, East Pit, South Pit and Central Area. Much of the existing operations predate zoning restrictions and state mining laws and have been sanctioned by two separate permits issued by the City in 1965 and 1996. Neither permit is restricted by time limits. As a result of the continuous nature of the operations and the lack of a closure date on the permits issued by the City of Banning, the site is considered to have vested mining rights. These rights are attributed to the property in ownership at the time that activities commenced and/or permit issuances and continue until all the resources have been recovered or mining activities cease with no intent to recommence. However, 17 acres of the western portion of the site (West Pit) were mined outside of the existing permitted areas and are not included in the vested ownership.

The proposed physical activities associated with the Project being evaluated under the California Environmental Quality Act (CEQA) are shown on Figure 1, discussed in further detail in the Appendix G of the Initial Study, and include the following activities:

- **South Pit Expansion:** Extend the existing Banning Quarry mining operation, to encompass an additional 23 acres directly south of the existing South Pit mining operation on the Matich property. This area is referred to as the South Pit Expansion Area.

- **Ready Mix Concrete (RMC) Plant:** Construct and operate an RMC plant and associated support and maintenance facility to be located in the bottom of the existing South Pit. The maintenance facility would contain typical equipment and materials required for mining and RMC operations on an as needed basis. These could include motor oils, transmission fluids, brake fluids, hydraulic fluids, lubricating grease, oils, cleaning solvents, paint, paint thinners, antifreeze, etc.). The existing 12,000-gallon above ground storage tank (AST) for diesel fuel would also be relocated to this area.
- **Portable Concrete Recycle Plant:** Operate a portable concrete recycle plant located in the bottom of the existing South Pit to crush and recycle used concrete on an as needed basis.
- **West Pit:** Adjust the boundaries of the existing Banning Quarry to include 17-acres located in the western end of the West Pit that were mined outside of the permit limits. Reclaim this area per the Amended Reclamation Plan, as required to be in compliance with the California Surface Mining and Reclamation Act (SMARA). This will include a stabilization fill slope with subdrains and infiltration pond to control potential groundwater seepage and erosion.
- **East Pit:** Correct the over steepened slope conditions in the East Pit by backfilling, as required to be in compliance with SMARA and as required by the recommendations from the geotechnical report prepared by CHJ for the Project.
- **Reclamation:** Combine the two existing Reclamation Plans for the Banning Quarry with the proposed Project activities into one Amended Reclamation Plan and reclaim the quarry as identified in the Amended Reclamation Plan as required by SMARA. Phase 1 of the Amended Reclamation Plan includes the establishment of buttressed fill slopes with slope drains and a water infiltration basin and buttressed fills in the northwest corner of the unpermitted 17-acres of the West Pit and buttressed fill along the northern boundary and in the eastern portion of the East Pit. Phase 2 includes the reclamation of all other areas of the site including the South Pit and South Pit Expansion site. The RMC plant and maintenance facility would remain following completion of reclamation.

With the expansion of the South Pit (23 acres) and the inclusion of the 17-acres already mined in the West Pit the final footprint of the Banning Quarry would be 171-acres. This does not include the 38-acres that have been formally reclaimed within the limits of the San Gorgonio River and therefore, as directed by the Division of Mine Reclamation (DMR), removed from the Amended Reclamation Plan.

Due to the circumstances associated with the vested mining rights and the proposed off-site expansion, Robertson's and the City entered a Memorandum of Understanding (MOU). Elements of the MOU and the entitlement process include the following:

- Pursuant to a Memorandum of Understanding (MOU), Robertson's will enter into a Development Agreement with the City.
- As part of the Development Agreement, a Conditional Use Permit (CUP) is required for the 23-acre expansion of the South Pit mining operation onto the Matich property, and the RMC and portable concrete and concrete recycling plants to be located in the bottom of the South Pit.
- Combine and amend the existing two Reclamation Plans that currently cover operations on lots 107, 108, 109, 110, 113, 114, 115, 116, 119, 120, 121/122 (CUP 1965); and lots 126, 127, 128, 132, 133, and 134 (UUP 1994-01) to include the proposed 23 acre South Pit Expansion, the 17-acre West Pit previously mined unpermitted area (including the instillation of an infiltration pond and reclamation area), the RMC plant and a portable concrete recycle plant and the correction of the over steepened slope condition in the East Pit as required by SMARA and as required by the recommendations from the geotechnical report prepared by CHJ for the Project.
- A General Plan and Zoning Change from Low Density Residential (LDR) to Industrial-Mineral Resources (I-MR) for the 17-acre unpermitted mining area of the West Pit.
- Vacation of the following paper streets within the limits of the CUP boundary: Summitt Drive, Repplier Road, Gilman Street, Hargrave Street, Theodore Street, and Hathaway Street.

### **DEVELOPMENT AGREEMENT:**

The Development Agreement would be between the City, Robertson's and Matich Corporation. Matich Corporation owns parcels in the southern expansion area and is in the process of transferring those parcels to Robertson's through a purchase and sale agreement. The Development Agreement is for a term of 20 years (until December 31, 2040, when final reclamation is to be completed for the Quarry, or upon earlier completion of final reclamation by Robertson's), and allows Robertson's to mine and reclaim the Quarry consistent with the Conditional Use Permit No. 16-8007 and Reclamation Plan Amendment 17-9504, and other existing regulations.

The MOU required the City and Robertson's to work in good faith in an attempt to enter into such a Development Agreement. The Development Agreement memorializes many

terms in the MOU, including the following benefits that the City would receive from Robertson's: Mining Tax of \$0.25 per ton of aggregate mined from the Quarry; sales tax revenue from the new ready-mixed concrete plant; a rebate of \$0.15 per cubic yard of ready-mixed concrete poured for construction projects within City limits, and a revenue supplement of up to \$125,000 for any calendar year where the mining revenue (the combined total of the Mining Tax plus the Sales Tax plus the Rebate) is less than the City revenue goal (the total tonnage of aggregate mined by Robertson's at the Quarry in that same calendar year multiplied by \$0.40 per ton.) The Development Agreement also provides that after reclamation Robertson's will dedicate to the City, to 25% of the total usable acreage (approximately 70-85 acres) to public use. No specific public use is required for this portion of the site Quarry dedicated to public use, but possible end uses include, but are not limited to, permanent uses (such as (a) a recreational lake with recreational shore front and park area adjacent to the lake, (b) off-road track, (c) entertainment use, such as concert venue, water park, amusement center, golf course, or adventure park), (d) seasonal uses (such as Christmas tree/pumpkin patch area), or (e) weekend uses (such as farmer's market, swap meet, etc.).

Further, as intended by the MOU, a motion to dismiss, with prejudice, the litigation between the parties, the Agreement would require Robertson's to resolve the post-judgment proceedings in Case No. RIC 1500296 ("Public Records Act case"), filed on January 9, 2015; and the litigation of the Case No. RIC 1513475 ("Tax Refund case"), filed on November 13, 2015.

The agreement also requires Robertson's to obtain a performance bond in the amount of one million five hundred thousand dollars (\$1,500,000.00) representing the estimate of the security required to assure Robertson's faithful performance of all obligations under the Agreement. This bond amount would be reduced if the SMARA financial assurance bond is increased. However, the bond required by the Agreement would not be less than one million dollars (\$1,000,000.00). This is in addition to the financial assurances required under SMARA.

### **ENVIRONMENTAL DETERMINATION:**

#### California Environmental Quality Act (CEQA)

Should the Commission proceed with Resolution to Deny No. 2020-13, the Planning Commission recommends that the City Council, based on its own independent judgement, find, determine and declare that the Project is exempt from requirements of the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 et seq.) pursuant to Section 15270(a) of the CEQA Guidelines because CEQA does not apply to projects which a public agency rejects or disapproves.

September 22, 2020

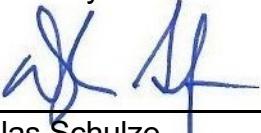
Page 7 of 7

Should the Commission proceed with Resolution to Approve No. to 2020-11, the Planning Commission recommends that the City Council, based on its own independent judgement, adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Project, attached.

**ATTACHMENTS:**

1. Ordinance 1563 [https://banningca.gov/DocumentCenter/View/7915/ATT-1\\_CC\\_Ordinance-1563---Adopt-Robertson\\_s-Quarry-ZC---91220-v5](https://banningca.gov/DocumentCenter/View/7915/ATT-1_CC_Ordinance-1563---Adopt-Robertson_s-Quarry-ZC---91220-v5)
2. Resolution 2020-118
  - a. [https://banningca.gov/DocumentCenter/View/7925/ATT-2a\\_CC\\_Resolution-2020-118---Adopt-Banning-Quarry-GPA-CUP-RCA-MND--MMRP---91220-v5](https://banningca.gov/DocumentCenter/View/7925/ATT-2a_CC_Resolution-2020-118---Adopt-Banning-Quarry-GPA-CUP-RCA-MND--MMRP---91220-v5)
  - b. [https://banningca.gov/DocumentCenter/View/7916/ATT-2b\\_EXHIBIT-A\\_IS\\_MND\\_MMRP](https://banningca.gov/DocumentCenter/View/7916/ATT-2b_EXHIBIT-A_IS_MND_MMRP)
  - c. [https://banningca.gov/DocumentCenter/View/7917/ATT-2c\\_EXHIBIT-B\\_Project-Plans](https://banningca.gov/DocumentCenter/View/7917/ATT-2c_EXHIBIT-B_Project-Plans)
  - d. [https://banningca.gov/DocumentCenter/View/7918/ATT-2d\\_EXHIBIT-C\\_COAs](https://banningca.gov/DocumentCenter/View/7918/ATT-2d_EXHIBIT-C_COAs)
  - e. [https://banningca.gov/DocumentCenter/View/7919/ATT-2e\\_EXHIBIT-D\\_GPA-17-2502](https://banningca.gov/DocumentCenter/View/7919/ATT-2e_EXHIBIT-D_GPA-17-2502)
3. Ordinance 1570
  - a. [https://banningca.gov/DocumentCenter/View/7920/ATT-3a\\_CC\\_Ordinance-1570---Adopt-Robertson\\_s-Quarry-DA---91220-v5](https://banningca.gov/DocumentCenter/View/7920/ATT-3a_CC_Ordinance-1570---Adopt-Robertson_s-Quarry-DA---91220-v5)
  - b. [https://banningca.gov/DocumentCenter/View/7921/ATT-3b\\_EXHIBIT-A-to-CC\\_Ordinance-1570](https://banningca.gov/DocumentCenter/View/7921/ATT-3b_EXHIBIT-A-to-CC_Ordinance-1570)
4. Resolution 2020-119 [https://banningca.gov/DocumentCenter/View/7922/ATT-4\\_CC-Resolution-2020-119---Banning-Quarry-Setting-Hearing-for-Street-Vacation---9112020-v4](https://banningca.gov/DocumentCenter/View/7922/ATT-4_CC-Resolution-2020-119---Banning-Quarry-Setting-Hearing-for-Street-Vacation---9112020-v4)
5. Street Vacation Segments [https://banningca.gov/DocumentCenter/View/7923/ATT-5\\_Street-Vacation-Segments](https://banningca.gov/DocumentCenter/View/7923/ATT-5_Street-Vacation-Segments)
6. Development Agreement <https://banningca.gov/DocumentCenter/View/7926/ATT-6-Banning-Robertsons-DA-RWG-Additions-and-Comments-on-DLA-Version-09082020-V25>
7. Planning Commission Staff Report [https://banningca.gov/DocumentCenter/View/7924/ATT-7\\_Planning-Commission-Staff-Report\\_09-02-20](https://banningca.gov/DocumentCenter/View/7924/ATT-7_Planning-Commission-Staff-Report_09-02-20)
8. Project Plans [https://banningca.gov/DocumentCenter/View/7913/ATT-8\\_Project-Plans](https://banningca.gov/DocumentCenter/View/7913/ATT-8_Project-Plans)
9. Public Hearing Notice (PHN) [https://banningca.gov/DocumentCenter/View/7914/ATT-9\\_Public-Hearing-Notice-PHN](https://banningca.gov/DocumentCenter/View/7914/ATT-9_Public-Hearing-Notice-PHN)

Approved by:



Douglas Schulze  
City Manager

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## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 22, 2020

**SUBJECT:** Design for the Proposed Entry Monument Sign on East Ramsey Street

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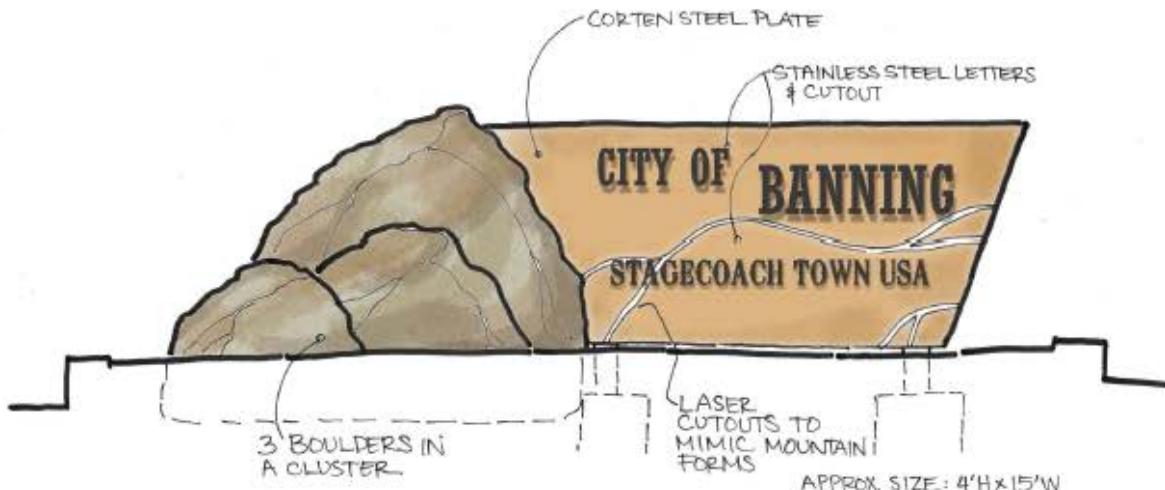
### **RECOMMENDED ACTION:**

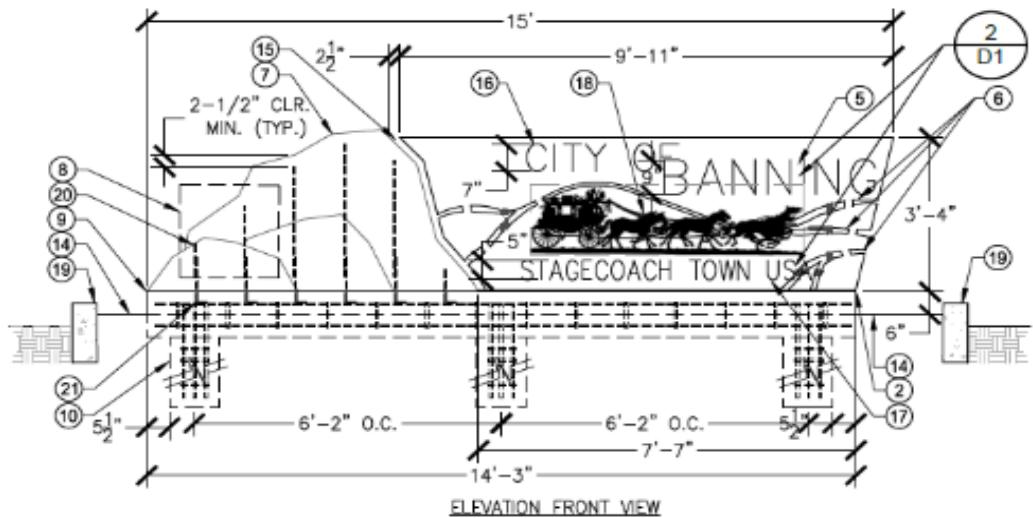
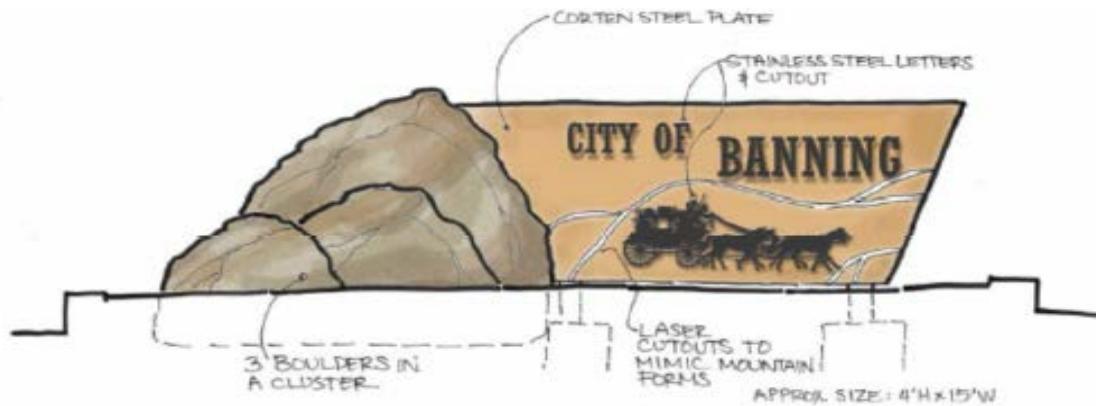
City Council discuss and select one design option for the proposed entry monument sign on east Ramsey Street.

### **BACKGROUND:**

City staff has been working on improvements of the intersection at Hathaway Street and Ramsey Street. As part of the design package staff has included a new entry monument sign that would be constructed within the Ramsey Street raised median that would be seen by westbound traffic.

On September 26, 2017 staff presented four alternatives to City Council for the proposed monument sign on east Ramsey Street and as a result City Council selected one that incorporated both of the following concepts:





Considering that a new City logo was recently adopted by City Council, staff thought it prudent to obtain City Council's concurrence with the proposed monument sign design or to receive new direction from City Council, which it did on August 25, 2020. Staff took City Council design comments and developed a new set of concepts as shown in Attachment #1.

City staff request that City Council select one concept to be incorporated into the construction documents for the Hathaway Street/Ramsey Street Intersection improvement project.

#### **FISCAL IMPACT:**

It is expected that costs associated with the revisions to the construction documents will be incurred estimated to be approximately \$3,000.

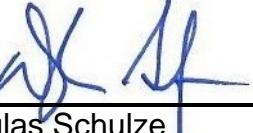
September 22, 2020

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**ATTACHMENT:**

1. East Ramsey Street monument sign concepts

Approved by:

  
\_\_\_\_\_  
Douglas Schulze  
City Manager

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**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Adam B. Rush, Community Development Director

**MEETING DATE:** September 22, 2020

**SUBJECT:** Resolution 2020-117, Adopting a Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program (MMRP) for EA 20-1504, Conditional Use Permit 19-8008 and Design Review 19-7014 for Constructing and Operating an Indoor Cannabis Cultivation and Distribution Facility on 1.8 Acres of a 4-Acre Parcel Located at the Southeast Corner of West Lincoln Street and South 8<sup>th</sup> Street (Hwy 243).

---

**DIRECTION OF THE PLANNING COMMISSION/RECOMMENDED ACTION:**

Staff recommends the City Council Adopt Resolution 2020-117:

1. Finding that in accordance with the California Environmental Quality Act (CEQA) that all environmental impacts have been evaluated and disclosed through the adoption of a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) for the Project; and
2. Approving Conditional Use Permit 19-8008 and Design Review 19-7014, a proposal to construct and operate an indoor cannabis cultivation and distribution facility, subject to the recommended conditions of approval (the "Project").

**PROJECT / APPLICANT INFORMATION:**

Project Applicant: Dominion Property Partners, LLC  
2811 Wilshire Blvd., Suite 400  
Santa Monica, CA 90403

Property Owner: Dominion Property Partners, LLC  
2811 Wilshire Blvd., Suite 400  
Santa Monica, CA 90403

Project Location: Southeast corner of West Lincoln Street and South 8<sup>th</sup> Street

APN Information: 540-250-001

**REQUEST:**

The applicant, Dominion Property Partners, LLC is requesting approval of a Conditional Use Permit (CUP) and Design Review (DR) to allow for the construction and operation of a 21,000 square foot structure for commercial cannabis cultivation and distribution.

**BACKGROUND:**

At their regular meeting on September 2, 2020, the Planning Commission adopted Resolution 2020-16, recommending the City Council adopt the environmental determination for the Project, approve Design Review 19-7014 and Conditional Use Permit 19-8008 to authorize the commercial cannabis operation.

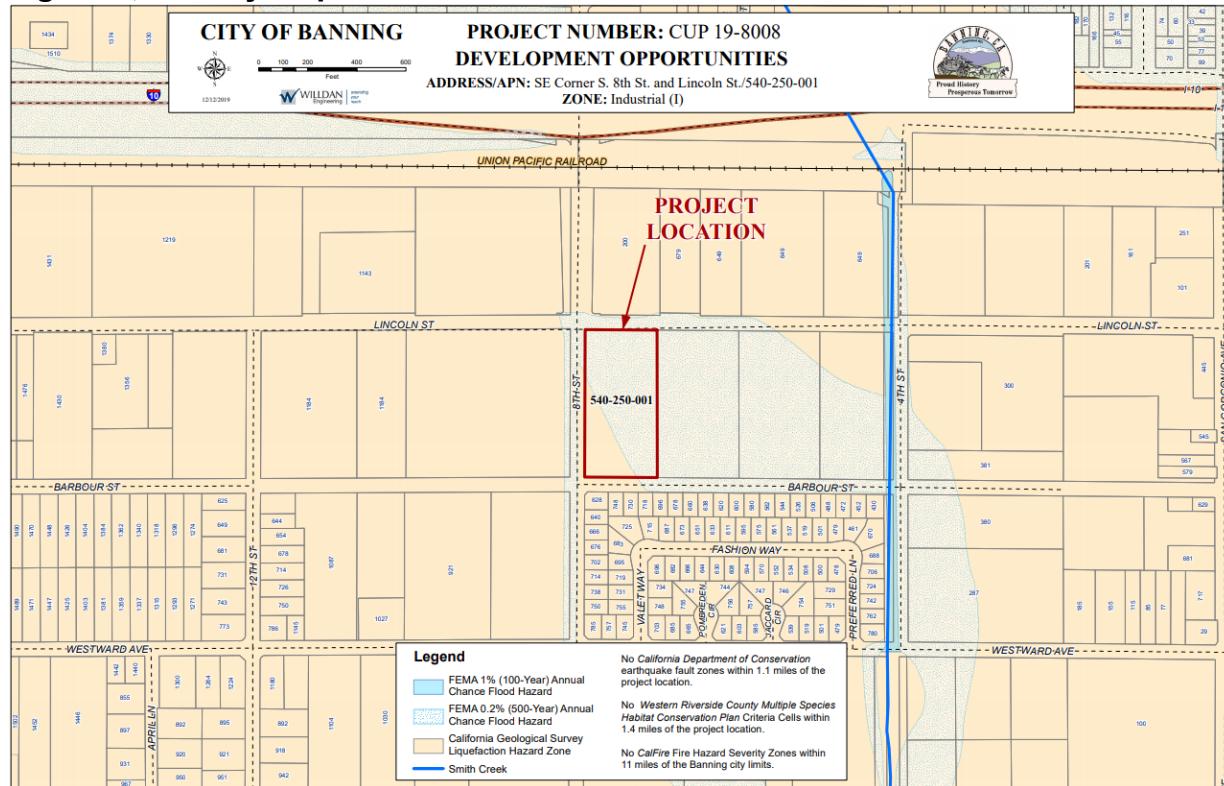
**DESCRIPTION:**

Dominion Property Partners, LLC is the first to seek entitlement to construct a cannabis cultivation and distribution facility under the new cannabis program. The Project will construct and operate a cannabis cultivation and distribution facility in the Industrial Zoning District; which is located at the southeast corner of West Lincoln Street and South 8<sup>th</sup> Street (see Figure 1).

The Project involves the construction and operation of an approximate 21,000-square-foot (SF) industrial, non-refrigerated warehouse for use as a cannabis cultivation and distribution facility. The proposed warehouse includes the following: 2,500 SF of offices and an employee break room; approximately 12,288 SF of grow rooms; approximately 6,031 SF for the mother clone room, dry room packing, and vegetation room; and a loading area.

The development of the site will occupy 1.8-acres of a 4-acre property. The applicant intends to develop the balance of the site under subsequent phases yet to be submitted.

The Project will include a maximum number of 14 employees, which includes warehouse and office staff, as well as access to 24-hour security personnel. There will be two shifts per day (6:00 am–2:30 pm and 2:30 pm–11 pm) with approximately six (6) warehouse employees and one (1) armed security guard on site during each shift.

**Figure 1, Vicinity Map**

In accordance with Banning Municipal Code (BMC), the applicant submitted a security plan that includes High Definition cameras supplemented by additional surveillance equipment. City staff has completed a review of the security plan and determined that the applicant is providing adequate security lighting and active and passive security measures that will mitigate potential security threats. Additionally, an air filtration system will be installed to prevent odors from leaving the premises.

#### Surrounding Land Use

The vacant site is located on the southeast corner of West Lincoln Street and South 8<sup>th</sup> Street. The vacant 4-acre parcel is surrounded by undeveloped Industrial zoned property to the east, undeveloped Business Park zoned property to the west, developed Industrial Zoned property to the north, and developed Low-Density Residential zoned property to the south.

The nature of the surrounding uses, zoning classifications, and General Plan land use designations are delineated for Planning Commission consideration in the following table:

**Land Use Summary Table**

	Existing Land Use	Zoning Classification	General Plan Designation
<b>Subject Site</b>	Vacant	Industrial	Industrial
<b>North</b>	Developed	Industrial	Industrial
<b>South</b>	Developed Single-Family Residential	Low Density Residential	Low Density Residential
<b>East</b>	Vacant	Industrial	Industrial
<b>West</b>	Vacant	Business Park	Business Park

**PROJECT ANALYSIS:**

**Zoning**

Table 17.12.020 (“*Permitted, Conditional and Prohibited Commercial and Industrial Uses*”) of Section 17.12.020, of Chapter 17.12 of Title 17 of the Banning Municipal Code provides that Cannabis Cultivators and Distributors are permitted in the Industrial (I) Zoning District, subject to approval of a Cannabis CUP by the City Council, and recommendation by the Planning Commission, and subject to the requirements of Chapters 17.52 and 17.53 of the Zoning Code.

**Conditional Use Permit**

In accordance with BMC Section 17.52.010, the purpose of a Conditional Use Permit is:

- A. Conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of the use being proposed for a location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing the use to established development standards and design guidelines.
- B. This review shall determine whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use, against any negative or undesirable impacts which it may cause. Limits which the City Council might want to impose, could include restrictions on the hours of business operation; restrictions on the number of clients or patients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted by the business or other use; as well as any other conditions which

could help make the use more compatible with the neighborhood in which it is proposed to be located.

**BMC Section 17.52.050 – Findings states:**

After a public hearing, the Planning Commission shall record the decision in writing identifying the findings upon which such decision is based. The Planning Commission may approve or modify a Conditional Use Permit application in whole or in part, with or without conditions, only if all the following findings are made:

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

**Staff has determined that above-referenced findings can be made. The support for the findings can be found in City Council Resolution 2020-117 (attachment 1).**

BMC Section 17.53.060, Procedures, and findings for approval of cannabis conditional use permits states:

- A. A cannabis conditional use permit shall be processed in accordance with the procedures set forth in Chapter 17.52, Conditional Use Permits, with the following exceptions:
  1. Any provision that requires the approval by the Planning Commission with appeal to the City Council shall be replaced with the requirement that the Planning Commission make a recommendation on the cannabis conditional

use permit and that the approval of such permit shall be made by the City Council.

2. Sections 17.52.020 (Application procedures) and 17.52.080 (Modifications) shall not apply.
3. Any procedures pertaining to noticing and the setting of a public hearing before the Planning Commission shall also apply to the City Council.

B. An applicant for a cannabis conditional use permit shall comply with the California Environmental Quality Act ("CEQA"). No cannabis conditional use permit shall be granted until the requisite CEQA review has been conducted.

Considering all factors and analysis, the Planning Division finds that approval of the Conditional Use Permit will serve the community by providing a convenient location for the cultivation and distribution of cannabis, providing cannabis products, jobs, and tax revenue.

#### Design Review

In accordance with BMC Section 17.56.010, the purpose of a Design Review is to:

- A. Establish design review procedures for development proposals.
- B. Assure that proposed projects conform to development standards and design guidelines.
- C. Focus on community design principles which result in creative, imaginative solutions which establish quality design for the City.
- D. Promote the orderly and harmonious appearance of structures, landscaping, parking areas, etc.
- E. Maintain the public health, safety and general welfare and property throughout the City.

#### BMC Section 17.56.050-Findings states:

Prior to making a determination, the review authority shall determine that the project adequately meets adopted City performance standards and design guidelines, based upon the following findings:

- A. The proposed project is consistent with the General Plan.
- B. The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

- C. The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development and will not result in vehicular and/or pedestrian hazards.
- D. The design of the proposed project is compatible with the character of the surrounding neighborhood.

**Staff has determined that above-referenced findings can be made. The support for the findings can be found in City Council Resolution 2020-117 (attachment 1).**

**Parking:**

Parking has been evaluated in accordance with BMC Chapter 17.28 under Manufacturing uses that require two spaces plus one additional space for every 600 square feet of floor area. The requirement is 37 spaces and the Project has provided 37 spaces according to the site plan.

**Access:**

Gated vehicle access is provided from South 8<sup>th</sup> Street and emergency ingress and egress is provided by a locked gated driveway on West Lincoln Street.

**Landscaping:**

The landscape area provided equals 19,500 square feet or 24.8 percent of the total planning area. Landscaping is provided well within the requirements of the BMC.

**Additional Requirements:**

Additional requirements identified in California Business and Professions Code Section 26054(b) state: "A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued," have been considered. The proposed location of the Cannabis Cultivator/Distributor is compliant with the above-mentioned requirements.

**ENVIRONMENTAL DETERMINATION:**

**California Environmental Quality Act (CEQA)**

The proposed Design Review 19-7014 and Conditional Use Permit 19-8008 are considered a "project" as defined by the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 et seq.). An Initial Study (EA 20-1504) has been prepared and made available for public review beginning August 7, 2020 and closing August 27, 2020.

Based upon analysis contained in the Initial Study, staff determined that any potentially significant effects on the environment would be reduced to less than significant levels

by mitigation measures incorporated in the Initial Study and that the preparation of an MND was appropriate. All mitigation measures are carried forward into Project Conditions of Approval. An MMRP has also been prepared, as required by CEQA.

**MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP):**

The Project is located outside of any MSHCP criteria cell areas and plan compliance is provided through payment of the MSHCP Mitigation Fee at the time of building permit issuance and the attached MMRP. According to the Initial Study, surveys for the Burrowing Owl and Migratory Birds are required as part of the MMRP. With conformance to the Conditions of Approval and Mitigation Measures contained in the MMRP, the Project will be compliant with the MSHCP.

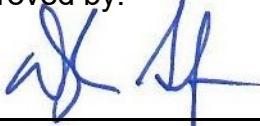
**PUBLIC COMMUNICATION:**

Proposed Design Review 19-7014 and Conditional Use Permit 19-8008 were advertised in the Record Gazette newspaper, September 11, 2020 (Attachment 5). As of the date of this report, staff has not received any written comments on the Project.

**ATTACHMENTS:**

1. City Council Resolution 2020-117 with Conditions of Approval  
<https://banningca.gov/DocumentCenter/View/7896/Att-1-Resolution-No-2020-117->
2. Planning Commission Resolution 2020-16  
[https://banningca.gov/DocumentCenter/View/7897/Att-2-Resolution-2020-16\\_adopted-20200902](https://banningca.gov/DocumentCenter/View/7897/Att-2-Resolution-2020-16_adopted-20200902)
3. Initial Study/Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program  
<https://banningca.gov/DocumentCenter/View/7898/Att-3-ISMND-and-MMRP>
4. Site Plan, Floor Plans, Elevations  
<https://banningca.gov/DocumentCenter/View/7899/Att-4-Site-Plan>
5. Notice of Publication  
<https://banningca.gov/DocumentCenter/View/7900/Att-5-Notice-of-Publication>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL  
**FROM:** Douglas Schulze, City Manager  
**MEETING DATE:** September 22, 2020  
**SUBJECT:** Banning Sportsman's Club Lease Agreement

---

### **RECOMMENDED ACTION:**

City Council authorize the City Manager to execute a lease agreement with Banning Sportsman's Club, Inc. for property at 260 Mias Canyon Road.

### **BACKGROUND:**

The current lease agreement with the Banning Sportsman's Club was entered into on June 27, 2007. The term of the current lease agreement included a one (1) year period with a fifteen (15) year extension. Therefore, the current lease agreement expires in June 2023. Representatives of the Banning Sportsman's Club contact the City Manager's Office several months ago to request consideration of an additional extension or new lease agreement.

The purpose of the request for the extension or new lease agreement is because the Sportsman's Club desires to make improvements to their facilities on the property, but they do not want to invest in the property if the lease is going to be terminated in a few years. While the Sportsman's Club uses the property for the sole purpose of maintaining and operating a clubhouse, rifle and pistol shooting range, and related activities, the lease agreement also requires the Club to make the property available exclusively to the Banning Police Department one day per week. Use of the facilities is of substantial value to the City of Banning.

It is not financially feasible for the City to operate a gun range solely for the purpose of the Banning Police Department. Operation of the facility by a 501 (c) (3), such as the Sportsman's Club, is a cost-effective option for the Banning Police Department to have a facility within close proximity. The lease agreement has been re-written completely to make it easier to interpret and updated with current language found in lease agreements.

City staff is not recommending declaration of the property as surplus due to the potential future use of the property for municipal operations. However, it is unlikely that the City will require use of the property within the proposed lease term.

**JUSTIFICATION:**

The City-owned property located at 260 Mias Canyon Road is currently used by the Banning Sportsman's Club as a rifle and pistol shooting range. The facilities require improvements and that investment is not practical without a longer term lease.

**FISCAL IMPACT:**

Cost savings to the City by having a shooting range for Banning Police Officers to use for training.

**OPTIONS:**

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

**ATTACHMENTS:**

1. Current Banning Sportsman's Club Lease Agreement  
<https://banningca.gov/DocumentCenter/View/7912/2007-Lease-Agreement>
2. Draft Lease Agreement <https://banningca.gov/DocumentCenter/View/7911/Lease-Agreement-final-draft>

Approved by:



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Douglas Schulze  
City Manager



## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 22, 2020

**SUBJECT:** Discussion on the Need for an Ordinance to Govern the Use of Golf Carts on Public Streets

---

### **RECOMMENDED ACTION:**

Discuss the need of an ordinance that would govern the use of golf carts on selected streets throughout the City of Banning.

### **BACKGROUND:**

On several occasions over the past several years the City has received requests by members of the public to consider allowing the use of golf carts on public streets. Most of the requests have been from residents of the Sun Lakes Country Club, a 55 and over community with over 3,300 homes and two privately owned and operated golf courses. The requests are typically specific to the legal use of golf carts along Sun Lakes Boulevard, a public street, for the purpose of traveling to and from the Sun Lakes Village Shopping Center.

The Rancho San Gorgonio ("RSG") Specific Plan, approved by City Council on October 11, 2016, is a master planned development which includes a mix of up to 3,385 residential units, 9.3 acres of neighborhood commercial use and 210 acres for parks and recreational areas. Amongst other requirements, the RSG development is conditioned to, and is planning on, providing neighborhood electric/golf cart lanes.

In order to govern the use of golf carts on public streets, staff has commenced working on an ordinance that would provide regulations intended to promote and protect the health and safety of the public. Examples of provisions that will be embedded in the ordinance include, but not limited to, design of travel lanes, minimum standards for golf

Staff Report: Golf Carts on Public Streets

September 22, 2020

Page 2 of 2

carts including safety equipment, criteria for operators of golf carts, permit requirements, penalties for violations and enforcement.

Staff plans to present a draft ordinance to City Council for consideration by the end of the year.

**FISCAL IMPACT:**

There is no impact related to this discussion.

Approved by:



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Douglas Schulze

City Manager



## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 22, 2020

**SUBJECT:** Update and Discussion of the Proposition 218 Ballot process for Landscape Maintenance District No. 1

---

### **RECOMMENDED ACTION:**

The purpose of this report is to provide City Council with and update of the Proposition 218 ("Prop 218") ballot for Landscape Maintenance District No. 1 ("LMD No.1") and to discuss the next steps in the process.

### **BACKGROUND:**

LMD No. 1 in the City of Banning was established through the adoption of Resolution 1990-59 on August 14, 1990 (9 tracts), with another, Tract No. 22913 being annexed into the District in 1992. An additional five tracts and three tentative tracts were annexed into LMD No. 1 (Annexation No. 1) when the City Council approved Resolution 2005-36 on May 10, 2005. There are currently ten (10) Zones and 1,015 assessment units (i.e. properties).

LMD No. 1 provides a mechanism for the operations and maintenance of landscape medians and parkways, perimeter strips, landscaped hillsides with high visibility, side slopes adjacent to sidewalks and retention basins annexed into it. LMD No. 1 funds expenses (e.g. utility costs, landscape maintenance contractor, etc.) by revenues collected from the special benefit assessments paid for by each property owner within LMD No. 1. A map displaying LMD No. 1 and boundaries of each tract is attached herewith as Attachment 1.

The annual Assessment Unit ("Assessment") rate ranges from \$98.91 to \$216.69, depending on the zone. The current assessments provide funding for general maintenance and do not fund capital replacement projects (e.g. major replanting, irrigation system/landscaping reconstruction, etc.). Based on the current assessments there is an estimated deficit of \$69,974 in fiscal year 2020/2021 which will be covered by the LMD No.1 fund balance of \$295,355.

Due to the revenue shortfall and the lack of funding for capital improvements, the Public Works Department prepared a Request for Proposals in December of 2018 with the intention to hire a consultant with expertise in the Prop 218 process and assessment districts to determine the proper zones and assessment amounts for each tract; the basis of assessments; assist in holding a Prop 218 Public Hearing; determine the estimated budget for the next 20 years; prepare necessary reports; and perform community outreach. In essence, a complete overhaul of the LMD No. 1 was sought including the restructuring of the district zones and assessments.

On April 9, 2019, the City Council approved Resolution 2019-42, awarding the professional services contract to Webb Municipal Finance, LLC ("Webb") to prepare the Financial Analysis, Redevelopment and Proposition 218 Report ("Report").

On November 12, 2019, the Report was presented to the City Council along with a request to determine which water rates to charge LMD No. 1 (i.e. municipal or retail water rates). The City Council voted to apply retail water rates for water consumption in the LMD No.1 and asked that community meetings be held to obtain feedback from the public on which option, explained below, they would like to see on the Prop 218 Ballot.

As requested, community outreach meetings were held on November 20, 2019 (2 meetings, morning and afternoon), December 9, 2019 and December 11, 2019. Presentations outlying the budget analysis and options for the LMD assessment units were given. The three options that were presented to the property owners within LMD No. 1 were as follows:

- Escalated costs with a reserve collection and maintenance program collection (\$0.29/SQFT), Option 1
- Escalated costs with a reserve collection and an escalated maintenance program collection (\$0.44/SQFT), Option 2
- Escalated costs with a reserve and maintenance program collection (\$0.29/SQFT) as well as a CIP collection over 30 years (\$13/SQFT), Option 3

Only twelve (12) vote cards were received at the meetings, with seven (7) property owners voting for Option 1, one (1) for Option 2 and four (4) for "none of the above." The City's website contained information on the Report and survey/vote cards were made available online.

On March 10, 2020, the City Council was presented an updated status report and requested to "Discuss and Determine the Rate Options/Assessment Units to Appear on Proposition 218 Ballots for Landscape Maintenance District No. 1" and subsequently, the City Council approved the Prop 218 Assessment rates per Zone as shown on Attachment 2, including an annual CPI increase. The Prop 218 Vote was scheduled to occur in June of 2020. However, due to COVID-19 restrictions and the closing of public facilities, the Prop 218 Engineer's Report approval and Prop 218 vote was postponed and will now occur on October 13, 2020 and December 8, 2020, respectively.

On October 13, 2020, City Council will be requested to approve the Prop 218 Engineer's Report which will include the new proposed Assessment rates for each Zone. If approved, the Prop 218 Ballot will be mailed to the property owners within LMD No. 1. Only one option per Zone will be voted upon by the property owners within that Zone along with the Option to vote "Oppose/No."

Each Zone's voting results are independent of the voting results of other Zones. In the event the Prop 218 vote on December 8, 2020 fails for a Zone, that Zone's Assessment rate would remain unchanged, with the exception that a CPI increase would be applied to a tract if it was one that was annexed into the LMD No. 1 in 2005, at which time, those property owners authorized an annual CPI adjustment.

Attachment 3 includes Draft envelopes, a Draft Assessment Ballot and a Draft Notice of Public Hearing that will be mailed to the affected property owners within LMD No. 1. A community meeting will be held in mid-November to provide community outreach and information about the Prop 218 process.

**JUSTIFICATION:**

Due to the fact LMD No.1 utility expenditures are increasing (e.g. charging a retail water rate instead of a municipal water rate) a deficit is anticipated moving forward and there are no funds to pay for capital improvements. A Report prepared by Webb provides the information needed to ensure LMD No.1 fund can operate with a balance budget.

The Prop 218 Ballot process will allow the property owners to vote on whether or not the Assessment rates should be increased to provide the necessary funding to operate LMD No.1 with a balanced budget.

**FISCAL IMPACT:**

The Prop 218 ballot process will determine the Assessment rates to be collected from LMD No. 1 property owners and will have a significant impact on the budget for the foreseeable future. Without increased Assessment rates, other funding sources would have to be utilized to pay for the expenses related to the operation and maintenance of LMD No.1 or operation service levels will have to decrease to fit within available budgets.

**ATTACHMENTS:**

1. LMD No. 1 Map for FY 2020/21  
<https://banningca.gov/DocumentCenter/View/7891/Attachment-1-LMD-No1-Map>
2. Approved Prop 218 Ballot Assessment Rates  
<https://banningca.gov/DocumentCenter/View/7892/Attachment-2-Prop-218-Assessment-Rates-per-Zone>
3. Draft Envelopes, Assessment Ballot and Notice of Public Hearing  
<https://banningca.gov/DocumentCenter/View/7893/Attachment-3-Ballot-NoticeEnvelope>

Approved by:



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Douglas Schulze  
City Manager