



## AGENDA

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

September 28, 2021  
5:00 p.m.

**In Chamber and via Video/Teleconference**  
Council Chambers  
99 E. Ramsey Street

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

***This meeting is being held in Chamber and via Video/Teleconference on Zoom so that members of the public may observe and participate in this meeting electronically. If you choose to participate in this meeting via Zoom, you are agreeing to abide by the City's Zoom Community Standards for Public Meetings (provided in full on the last page of the agenda).***

To observe and participate in the online video portion of the meeting through your personal computer or device, follow this link:

<https://us02web.zoom.us/j/87415277765?pwd=dFVSOFBuMGpSeTBSREtPNytXYnhSQT09>

**Meeting ID: 874 1527 7765**

**Password: 870511**

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

#### 1. **CALL TO ORDER**

- 1.1. Invocation
- 1.2. Pledge of Allegiance
- 1.3. Roll Call  
*Council Members Hamlin, Happe, Pingree, Sanchez, and Mayor Wallace*

#### 2. **AGENDA APPROVAL**

- 2.1. Approve Agenda

### **3. CLOSED SESSION**

#### **3.1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8

Property: Banning Municipal Airport, 200 So. Hathaway Street, Banning, CA 92220, (including APNs: 532-130-011, 012 and 018)

City Negotiators: Doug Schulze, City Manager

Negotiating Party: Grandave Capital, LLC, Ruben Islas, Manager

Under Negotiation: Price and terms for long-term lease of property

#### **3.2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8

Property: 150 East Ramsey Street, Banning, California

City Negotiator: Doug Schulze, City Manager

Negotiating Parties: Jafar Rahman, Jalal Rahman, Basam Abdelhady and Kahlid Ali of JK Partners,

Under Negotiation: Price and terms for potential sale or property

#### **3.3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION,**

Potential Initiation of Litigation Pursuant to Paragraph (4) of Subdivision (d) of Section 54956.9 (One Case)

Tolling Agreement re Potential Claim by City against Southern California Edison for failure to make repairs to the Flume and the failure to maintain delivery of water through the Flume to the City

### **4. REPORT ON CLOSED SESSION**

#### **4.1. Assistant City Attorney**

### **5. PRESENTATION(S)**

5.1. Proclamation – Public Power Month..... **9**

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

#### **6.1. PUBLIC COMMENTS – Non-Agenda Items Only**

*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 their time 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 Item 10). PLEASE STATE YOUR NAME FOR THE RECORD.*

#### **6.2. CORRESPONDENCE**

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

**6.3. APPOINTMENTS**

Request to Appoint Two Members to the CDBG Ad-Hoc Committee..... **10**

**6.4. CITY COUNCIL COMMITTEE REPORTS****6.5. CITY MANAGER REPORT****6.6. CITY ATTORNEY REPORT****7. 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 Board wishes to remove an item for separate consideration.)*

***Mayor to Open Consent Items for Public Comments*****Motion: Approve consent items 7.1 – 7.19.**

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

7.1.	Approval of Minutes from the September 7, 2021 City Council Meeting.....	<b>13</b>
7.2.	Receive and File Contracts Approved Under the City Manager's Signature Authority, including CUPCAA Projects, for the Month of August 2021.....	<b>14</b>
7.3.	Receive and File Police Department Statistics for the Month of August 2021.....	<b>15</b>
7.4.	Receive and File Fire Department Statistics for the Month of August 2021... <b>16</b>	
7.5.	Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of August 2021.....	<b>17</b>
7.6.	Receive and File Cash, Investments and Reserve Report for the Month of August 2021.....	<b>19</b>
7.7.	Public Works Capital Improvement Project Tracking List.....	<b>21</b>
7.8.	City of Banning General Plan Annual Progress Report for Calendar Year 2020.....	<b>22</b>
7.9.	Resolution 2021-89 to update and restate the City's Surplus Lands Act Declaration for Property at APN 419-190-041.....	<b>26</b>
7.10.	Resolution 2021-03 SA, Reconveying the Deed of Trust and Resolution 2021-04 SA, Terminating the Covenants, Conditions and Restrictions recorded on Banning Ventures, LLC (DBA Coyne Motorsports) Located at 2301 W. Ramsey Street (APN 538-162-016).....	<b>28</b>
7.11.	Updating Resolution 2021-75, a Joint Resolution Approving the I-10 Corridor Strategic Plan.....	<b>30</b>
7.12.	Adopting Resolution 2021-83, "Authorizing Participation in the California Arrearages Payment Program to Request Funding for Unpaid Electric Utility Services Incurred During the Covid-19 Pandemic".....	<b>31</b>
7.13.	San Gorgonio Construction Contract.....	<b>34</b>
7.14.	Second Reading of Ordinance 1577 Incorporating Micro-Businesses into the Banning Municipal Code (BMC) by Amending Chapters 5.33 and 5.35 of Title	

5 and Chapters 17.04, 17.08, 17.12, 17.20, and 17.53 of Title 17 and Making Findings in Accordance with CEQA.....	36
7.15. Update the Environmentally Preferable Purchases and Practices Policy (EPPP) and Recycled Products Purchasing Policy (RCP) B-37.....	42
7.16. Approving an Emergency Purchase Order for Programmable Logic Controller (PLC) Replacement and Programming at the City of Banning Wastewater Treatment Plant (WWTP) Completed by Prime Systems Industrial Automation, Inc. of Riverside, California in the Amount of \$37,500.....	44
7.17. Accept the Right-of-Way Dedication for 1219 E Nicolet Street (Assessor's Parcel Number 541-091-010) from Innovation Remodel Corporation for Public Road and Utilities Purposes.....	46
7.18. Adopt Resolution 2021-86 Authorizing the Purchase of Two ENC EZ-Rider II CNG Buses from Creative Bus Sales through the utilization of the California Association for Coordination Transportation (CALACT) - Morongo Basin Transit Authority (MBTA) Competitive Bid Process in the amount of \$1,109,371.....	48
7.19. Resolution 2021-89, Approving Revisions to the Compensation and Classification Plan.....	51

## **8. PUBLIC HEARING(S):**

8.1. Continuation of the First Reading of Ordinance 1576 Amending and Restating Existing Title 8, Chapter 8.28, Garbage Collection and Disposal, of the Banning Municipal Code, and Finding an Exemption from CEQA under Sections 15061(b)(3) and 15308 of the CEQA Guidelines.....	53
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*(Staff Report: Art Vela, Public Works Director)*

**Recommendation:** Staff recommends Council introduce the first reading of Ordinance 1576, amending and restating existing Title 8, Chapter 8.28, Garbage Collection and Disposal, of the Banning Municipal Code and finding an Exemption from CEQA under Sections 15061(b)(3) and 15308 of the CEQA Guidelines. If approved, a second reading will be scheduled and considered by Council on September 28, 2021. Adoption of Ordinance 1576 requires a two-thirds vote of the City Council.

8.2. Resolution 2021-90, considering a recommendation by the Planning Commission to approve Tentative Tract Map 37389, a proposed residential development of 16 lots, including one detention basin/open space lot. The tentative tract map also includes a new public street located adjacent to Hoffer Street & Gilman Street, between Cherry Street and Evans Street, finding the project will be categorically exempt from the requirements of the California Environmental.....	58
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*(Staff Report: Adam Rush, Community Development Director)*

**Recommendation:** Staff recommends that the City Council adopt Resolution 2021-90, considering a recommendation by the Planning Commission to approve Tentative Tract Map 37389 and determine that the Project is exempt pursuant to State CEQA Guidelines Section 15332 (Class 32 - Infill Developments).

8.3. Resolution 2021-84 Recommending the City Council make a determination of exemption under CEQA Guidelines Section 15301 and approve Conditional Use Permit 21-8012, to allow for commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 101 (APN: 541-220-023) in the Industrial (I) Zoning District..... **63**  
*(Staff Report: Adam Rush, Community Development Director)*

**Recommendation:** Staff recommends the City Council adopt Resolution 2021-84, making a determination that the Project is exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) and approve Conditional Use Permit 21-8012 to allow for commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 101 (APN: 541-220-023) in the Industrial (I) zoning district.

8.4. Resolution 2021-85 Recommending the City Council make a determination of exemption under CEQA Guidelines Section 15301 and approve Conditional Use Permit 21-8013, to allow for commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 102 (APN: 541-220-023) in the Industrial (I) Zoning District..... **70**  
*(Staff Report: Adam Rush, Community Development Director)*

**Recommendation:** Staff recommends the City Council adopt 2021-85, making a determination that the Project is exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) and approve Conditional Use Permit 21-8013 to allow for commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 102 (APN: 541-220-023) in the Industrial (I) zoning district.

8.5. First Reading of Ordinance 1575 Amending Titles 5 and 15 of the Banning Municipal Code revising regulations pertaining to the permitting, operation, and maintenance of alarm systems within the City of Banning and providing for fees and penalties for false alarms and violations..... **77**  
*(Staff Report: Adam Rush, Community Development Director)*

**Recommendation:** Staff recommend City Council (1) read the ordinance by title only, (2) waive further reading of the ordinance, and (3) introduce Ordinance 1575. If approved, the matter will come before Council for a second reading at their next regular meeting on October 12, 2021.

## **9. REPORT OF OFFICERS**

9.1. Approval of a Professional Service Agreement with Kosmont Companies for Formation of a Community Revitalization Investment Authority in the City of Banning ..... **80**  
*(Staff Report: James Wurtz, Economic Development Manager)*

**Recommendation:** Staff recommends approving the Professional Services Agreement with Kosmont Company of Manhattan Beach, California for formation of a Community Revitalization Investment Authority (CRIA) plan.

9.2. Approval of an Agreement Between the Banning Police Department and the Banning Unified School District for Three (3) School Resource Officers (SROs)..... **83**  
*(Staff Report: Matthew Hamner, Chief of Police)*

**Recommendation:** The City Council Authorizes the City Manager or his designee to enter into a professional services agreement to provide the Banning Unified School District with three (3) School Resource Officers for the 2021-22 School Year.

9.3. SB 743 Vehicle Miles Traveled (VMT) Thresholds for California Environmental Quality Act (CEQA) Compliance Related to Transportation Analysis. .... **85**  
*(Staff Report: Adam Rush, Community Development Director)*

**Recommendation:** Waive the full reading and adopt by title only, "A Resolution of the City Council of the City of Banning Adopting' Vehicle Miles Traveled' Thresholds of Significance for Purposes of Analyzing Transportation Impact Under the California Environmental Quality Act."

9.4. Approve Contract Award for Total Classification and Compensation Study to Public Sector Personnel Services ..... **90**  
*(Staff Report: Cherie Johnson, Human Resources Manager)*

**Recommendation:** That City Council approve the contract award for a Total Classification and Compensation Plan in the amount of \$90,000, to include an analysis of health and fringe benefits.

## **10. DISCUSSION ITEM(S)**

None

## **11. ITEMS FOR FUTURE AGENDAS**

### **11.1. New Items**

### **11.2. Pending Items:**

1. Permanent Homeless Solution
2. Shopping Cart Ordinance Update
3. Scholarship/Internship Program
4. Census/Redistricting
5. Golf Cart/EV Ordinance
6. Airport Advisory Commission
7. Retail Marijuana (Happe)
8. Credit Card Fees (Happe)
9. Dog Tethering Ordinance (Pingree)

## **12. ADJOURNMENT**

**Next Regular Meeting – October 12, 2021 at 5:00 p.m.**

**Zoom Community Standards for Public Meetings**

*By participating in this meeting on Zoom, you are agreeing to abide by the City of Banning's Community Standards for Public Meetings. Zoom attendees that fail to adhere to these standards may be removed from the meeting room.*

- Your microphone must remain on mute, and you may only unmute your microphone when/if you are recognized by the Mayor.
- Your camera must be turned off unless/until you are recognized by the Mayor.
- To indicate a desire to make Public Comment, you must use the Raise Hand function. The Mayor will not recognize those who have not used the Raise Hand function.
- Public Comment from Zoom attendees will immediately follow in person comment from members of the public in Council Chambers.
- If you fail to adhere to these community guidelines, **you may be removed** for disrupting the meeting occurring in Council Chambers. You may rejoin the meeting but may be removed for each violation of these community standards.
- The chat function will be disabled for all City Council meetings on Zoom.

## AFFIDAVIT

IT IS HEREBY CERTIFIED under the laws of the State of California that the above Agenda was posted on the City's website ([www.banningca.gov](http://www.banningca.gov)) as well as the Bulletin Board at Banning City Hall, located at 99 E Ramsey Street, Banning, CA 92220, by 5:00 P.M. on the 23rd day of September 2021.



Caroline Patton, Deputy City Clerk

## PUBLIC NOTICE

### **Meeting Agendas and Notices**

Interested in receiving email and/or text notifications of upcoming City Council meetings? Sign up for meeting notifications through Notify Me (<https://banningca.gov/list.aspx>). Pursuant to amended Government Code §54957.5(b), staff reports and other public records related to open session agenda items are available on the City's website ([www.banningca.gov/archive](http://www.banningca.gov/archive)).

### **Public Comment**

#### *Agenda Items*

Any member of the public may address this meeting of the City Council on any item appearing on the agenda. A five-minute limitation shall apply to each member of the public and no member of the public shall be permitted to share their time with any other person.

#### *Non-Agenda Items*

Any member of the public may address this meeting of the 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 Council may act. A three-minute limitation shall apply to each member of the public and no member shall be permitted to share their time with any other person. No action shall be taken, nor discussion held by the 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 §54954.2 of the Government Code.

### **Special Assistance/Accessibility Requests**

In compliance with the Americans with Disabilities Act, any member of the public may request that the agenda and agenda packet be mailed to them. If you need special assistance to participate in this meeting (such as translation services), please contact the Office of the City Clerk. Advanced notification of at least 48 hours prior to the meeting will allow the City to make arrangements to ensure your accessibility.

## CONTACT

Office of the City Clerk • 951-922-3102 • [CityClerks@banningca.gov](mailto:CityClerks@banningca.gov)  
99 East Ramsey Street, Banning, California 92220



**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 2021, as Public Power Month.

**ATTEST:**

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Colleen Wallace, Mayor

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Caroline Patton, Deputy City Clerk



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Laurie Sampson, Executive Assistant

**MEETING DATE:** September 28, 2021

**SUBJECT:** Request to Appoint Two Members to the CDBG Ad-Hoc Committee

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### **RECOMMENDATION:**

Recommend the City Council appoint a committee at the September 28, 2021, meeting, consisting of at least two members from the City Council and the Economic Development Manager, to review and recommend FY 2022/2023 Community Development Block Grant ("CDBG") program applications.

### **BACKGROUND:**

The CDBG program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs that is federally funded by the U.S. Department of Housing and Urban Development ("HUD"). The CDBG program provides annual grants on a formula basis to 1209 general units of local government and States.

The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses. CDBG is an important tool for helping local governments tackle serious challenges facing their communities. The CDBG program has made a difference in the lives of millions of people and their communities across the Nation.

#### Eligible Activities:

- Economic Development
- Job Development
- Youth Services
- Senior Programs
- Health Services
- Public Safety Programs

- Neighborhood Revitalization
- Municipal Services
- Code Enforcement
- Transportation Services
- Housing Assistance/First Time Buyers

CDBG-funded projects **must** satisfy one of three national program objectives:

- Provide a benefit to low- and moderate-income persons,
- Prevent or eliminate slums and blight, or
- Meet other urgent community development needs due to natural disasters or other emergencies.
- Community Centers
- Workforce Development Centers
- Child Care Centers
- Senior Centers
- Health Facilities
- Sheriff/Fire Stations
- Flood and Drainage Facilities
- Water/Sewer Improvements
- Demolition
- Street Improvements/Sidewalks
- Homeless Centers

Riverside County Housing, Homelessness Prevention and Workforce Solutions will make the final determination of a project's eligibility.

Below is a schedule of important dates that are necessary to ensure that the City meets Riverside County Housing, Homelessness and Workforce Solutions Agency's application deadline.

- 9/24/2021 Application period opens to the public
- 10/25/2021 Applications due at 4:00 PM (hard copy only)
- 11/1/2021 Ad-Hoc meeting to review applications and make recommendation
- 11/9/2021 City Council to approve applications for submission to Riverside County

#### **FISCAL IMPACT:**

There is no fiscal impact associated with this recommendation or City Council action.

#### **ALTERNATIVES:**

1. Appoint (2) Ad-Hoc Committee Members

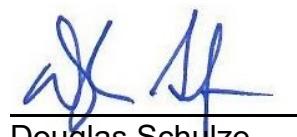
Staff Report: Appoint (2) CDBG Ad-Hoc Committee Members

September 28, 2021

Page 3 of 3

2. Do not appoint committee members and provide alternative direction.

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Caroline Patton, Deputy City Clerk *CP*

**MEETING DATE:** September 28, 2021

**SUBJECT:** Minutes of the September 7, 2021 Special City Council Meeting

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### **RECOMMENDED ACTION:**

Approve the Minutes of the September 7, 2021 City Council Meeting.

### **OPTIONS:**

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

### **ATTACHMENTS:**

1. Minutes of the September 7, 2021 Special City Council Meeting  
[https://banningca.gov/DocumentCenter/View/9356/2021-09-07\\_Minutes\\_Special-Meeting](https://banningca.gov/DocumentCenter/View/9356/2021-09-07_Minutes_Special-Meeting)

Approved by:

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

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



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Laurie Sampson, Executive Assistant

**MEETING DATE:** September 28, 2021

**SUBJECT:** Receive and File Contracts Approved Under the City Manager's Signature Authority, including CUPPCAA Projects, for the Month of August 2021

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### **RECOMMENDATION:**

Receive and file contracts approved under the City Manager's signature authority, including CUPPCAA projects, for the month of August 2021

### **BACKGROUND:**

City Council requested regular reports of contracts signed under the City Manager's signature authority of \$25,000 or less and CUPPCAA projects up to \$250,000.

### **ATTACHMENT:**

1. Contracts List for August 2021  
<https://banningca.gov/DocumentCenter/View/9365/Att-1-Contracts-Approved-Under-CM-Authority>

Approved by:

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

Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Matthew Hamner, Police Chief  
Angie Lam, Police Assistant II

**MEETING DATE:** September 28, 2021

**SUBJECT:** Receive and File Police Department Statistics for the Month of August 2021

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### **RECOMMENDATION:**

Receive and File Police Statistics for the month of August 2021.

### **BACKGROUND:**

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

### **ALTERNATIVES:**

1. Receive and File

### **ATTACHMENT:**

1. Police Statistics for August 2021  
<https://banningca.gov/DocumentCenter/View/9366/Aug-2021-stats>

Approved by:

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

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Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Receive and File Fire Department Statistics for the Month of August 2021

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### **RECOMMENDATION:**

Receive and File Fire Department statistics for the month of August 2021.

### **BACKGROUND:**

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

### **FISCAL IMPACT:**

None

### **ATTACHMENT:**

1. Fire Statistics for August 2021  
<https://banningca.gov/DocumentCenter/View/9367/Banning-August-2021-Fire-Report>

Approved by:



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Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Suzanne Cook, Finance Director  
A'ja Wallace, Budget and Financial Analyst

**MEETING DATE:** September 28, 2021

**SUBJECT:** Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of August 2021

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### **RECOMMENDATION:**

That City Council review and ratify the warrants for period ending **August 31, 2021**, per California Government Code Section 37208.

### **WARRANT SUMMARY:**

Description	Payment #	Amount	Total Amount
<b>Checks:</b>			
Checks Issued during Month	179310-179608	\$ 2,867,402.02	
Voided / Reissue Check		\$ 100,016.76	
	<b>Check Total</b>		<b>\$ 2,767,385.26</b>
	<b>Wires Total</b>		<b>\$ 4,728,456.80</b>
<b>ACH payments:</b>	9007040-9007065		
Payroll Direct Deposit	8/13/2021	\$ 434,034.80	
Payroll Direct Deposit	8/27/2021	\$ 445,347.60	
Other Payments		\$ 1,080,094.84	
	<b>ACH Total</b>		<b>\$ 1,959,477.24</b>
<b>Payroll Checks:</b>	12411-12436		
Payroll - Regular	8/13/2021	\$ 4,619.94	
Payroll - Regular	8/27/2021	\$ 2,989.07	
	<b>Payroll Check Total</b>		<b>\$ 7,609.01</b>
	<b>Total Warrants Issued for August 2021</b>		<b>\$ 9,462,928.31</b>

September 28, 2021

Page **2** of **2**

**ATTACHMENTS:**

1. Fund List

<https://banningca.gov/DocumentCenter/View/9424/Attachment-1--Fund-List>

2. Warrant Report

<https://banningca.gov/DocumentCenter/View/9425/Attachment-2--Warrant-Report-August-2021>

3. Warrant Report Detail

<https://banningca.gov/DocumentCenter/View/9422/Attachment-3--Warrant-Report-Detail-August-2021>

4. Voided Check Log, Payroll Log & Registers

<https://banningca.gov/DocumentCenter/View/9423/Attachment-4--Void-Check-Payroll-Log-and-Payroll-Register>

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 STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Suzanne Cook, Finance Director  
A'ja Wallace, Budget and Financial Analyst

**MEETING DATE:** September 28, 2021

**SUBJECT:** Receive and File Cash, Investments and Reserve Report for the Month of August 2021

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### RECOMMENDATION:

That City Council receive and file Cash, Investment and Reserve Report for **August 31, 2021** 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	\$ 17,507,737.54	\$ 11,681,460.69
Investments		
LAIF	\$ 39,745,172.25	\$ 39,745,172.25
Brokerage	\$ 27,534,846.86	\$ 27,534,971.60
<b>Total Funds Under Control of the City</b>	<b>\$ 84,791,911.65</b>	<b>\$ 78,965,759.54</b>
<b>Funds Under Control of Fiscal Agents</b>		
US Bank		
Restricted Bond Project Accounts	\$ 11,671,372.89	\$ 11,671,434.32
Restricted Bond Accounts	\$ 4,820,120.59	\$ 6,601,925.75
Union Bank & SCPPA		
Restricted Funds	\$ 3,643,425.29	\$ 4,164,098.15
<b>Total Funds Under Control of Fiscal Agents</b>	<b>\$ 20,134,918.77</b>	<b>\$ 22,437,458.22</b>
<b>Total Funds</b>	<b>\$ 104,926,830.42</b>	<b>\$ 101,403,217.76</b>

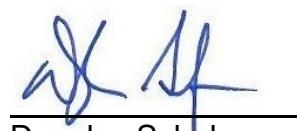
**RESTRICTED, ASSIGNED, COMMITTED AND RESERVED SUMMARY:**

Description	Prior Month	Current Month
<b>Total Funds</b>	\$ 104,926,830.42	\$ 101,403,217.76
Restricted Funds	\$ 41,542,785.22	\$ 42,162,253.37
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	\$ 13,237,530.48	\$ 13,237,530.48
<b>Total Restricted, Assigned, Committed and Reserves</b>	<b>\$ 67,187,512.95</b>	<b>\$ 67,806,981.10</b>
<b>Operating Cash - Unrestricted Reserves</b>	<b>\$ 37,739,317.47</b>	<b>\$ 33,596,236.66</b>
Less Accounts held in Investments	\$ 27,534,846.86	\$ 27,534,971.60
Liquid Cash	\$ 10,204,470.61	\$ 6,061,265.06

**ATTACHMENTS:**

1. Cash, Investment and Reserve Report  
<https://banningca.gov/DocumentCenter/View/9429/Attachment-1--Cash-Investment-and-Reserve-Report-August-2021>
2. Investment Report  
<https://banningca.gov/DocumentCenter/View/9430/Attachment-2--Investment-Report-August-2021>
3. City of Banning Broker Investment Report  
<https://banningca.gov/DocumentCenter/View/9426/Attachment-3--City-of-Banning-Broker-Report>
4. LAIF / PMIA Performance Report  
<https://banningca.gov/DocumentCenter/View/9427/Attachment-4--PMIA-LAIF-Performance-Report-August-2021>
5. LAIF Market Valuation Report  
<https://banningca.gov/DocumentCenter/View/9428/Attachment-5--LAIF-Market-Valuation-August-2021>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Public Works Capital Improvement Project Tracking List

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### **RECOMMENDATION:**

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. To keep the City Council and the public informed of the progress made and the 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

### **ATTACHMENT:**

1. CIP Status List

<https://banningca.gov/DocumentCenter/View/9368/Attach-1-CIP-Update-September-2021>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** City of Banning General Plan Annual Progress Report for Calendar Year 2020

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### **RECOMMENDATION:**

Staff recommends that the City Council Receive and File the General Plan Annual Progress Report (APR) for Calendar Year 2020 and direct staff to amend its filing with the State of California Office of Planning and Research (OPR) and State Department of Housing and Community Development (HCD).

### **BACKGROUND:**

On January 31, 2006, the City Council adopted Resolution No. 2006-12 approving the Comprehensive General Plan Update. Since its adoption, the City has continued to take proactive steps in implementing the goals, policies and action programs of the General Plan. As in previous years, budgetary constraints have played a role in the lack of follow through in implementing some of the General Plan programs.

In keeping with the organizational format of the 2006 General Plan, the General Plan Annual Progress Report arranges the twenty-one elements among the four subject chapters. Each section contains the adopted goals and policies including a summary table that reflects the action program, responsible City department or agency, adopted schedule and implementation status. As in previous years, the information contained within the General Plan Annual Progress report was obtained (through a series of inter-department meetings) from the following City departments: Community Development, Public Works, Electric Utility, Water/Wastewater Utility, Community Services, Fire Services and Police.

For easy reference, the action programs that have been completed and/or are active and ongoing are identified in **bold type**, while the programs that have not been completed/initiated are identified in *italics*.

In addition to the attached General Plan Annual Progress Report, additional housing information is required to be submitted to State Housing and Community Development

Department (HCD) related to the construction of affordable housing, rehabilitated homes, and the Regional Housing Needs Assessment requirements. The 2014-2021 Regional Housing Needs Assessment (RHNA) obligations, as prepared by the Southern California Association of Governments (SCAG), sets forth the planning period goal of 3,792 units for the City.

In 2019, HCD implemented a new Annual Progress Report form for subsequent reporting periods. The Annual Building Activity Report Summary form includes entitlements, permits issued and completed units. For 2020, it is noted that the City approved entitlements for 1,416 new dwelling-units and issued building permits for one-thousand two-hundred ninety-one (1,291) units. In 2020, two (2) homebuilders met with the City to discuss finalization of tentative tract maps for the construction of single-family dwellings.

It should be stated that the purpose of this process is to review the General Plan Annual Progress Report from the standpoint of providing information to OPR and HCD as to how the City's adopted General Plan programs have been implemented, rather than to solicit direction as to which programs should be changed or eliminated.

**JUSTIFICATION:**

California State law requires the City to prepare a General Plan Annual Progress Report. The report must be approved by the City Council and filed with the Governor's Office of Planning and Research (OPR) and the State Housing and Community Development Department by April 1<sup>st</sup> of each year. The State uses the information submitted by the City to identify statewide trends in the land use decision making process and how local planning and development activities relate to statewide planning goals and policies. Planning staff prepared, and completed, a submittal to HCD in order to make the April 1<sup>st</sup> deadline while staff refined our data inputs.

California law requires each city to adopt a comprehensive, long-term General Plan to guide the physical development of both the incorporated city and the land outside city boundaries that bears a relationship to its planning activities. The General Plan serves as an outline for future growth and development. As such, the General Plan contains policies and programs designed to provide decision makers with a solid foundation for land use and development decisions. The City's General Plan contains twenty-one elements, which are listed below; and, are divided into four sections as follows:

### **Community Development**

- Land Use Element
- Economic Development Element
- Circulation Element
- Parks and Recreation Element
- Housing Element

### **Environmental Resources**

- Water Resources Element
- Open Space and Conservation Element
- Biological Resources Element
- Archaeological and Historic Resources Element
- Air Quality Element
- Energy and Mineral Resources Element

### **Environmental Hazards**

- Geotechnical Element
- Flooding and Hydrology Element
- Noise element
- Wildland Fire Hazards Element
- Hazardous and Toxic Materials Element

### **Public Services and Facilities**

- Water, Wastewater and Utilities Element
- Public Building and Facilities Element
- School and Libraries Element
- Police and Fire Protection element
- Emergency Preparedness Element

The purpose of the General Plan Annual Progress report is to provide a status report to ensure that the goals, policies, and plans of the General Plan are being implemented and to identify the necessary “course adjustments” or modifications to the General Plan and means to improve local implementation.

### **FISCAL IMPACT:**

There is no direct fiscal impact to the City's General Fund as a result of the recommended action.

### **ALTERNATIVES:**

1. Receive and file as recommended.
2. Pull for discussion and provide alternative direction.

### **ATTACHMENTS:**

1. 2020 General Plan Annual Progress Report  
<https://banningca.gov/DocumentCenter/View/9484/2020-General-Plan-Annual-Progress-Report>
2. 2020 Housing Element Update  
<https://banningca.gov/DocumentCenter/View/9474/2020-Housing-Element-Annual-Progress-Report>

Approved by:



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Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Caroline Patton, Deputy City Clerk

**MEETING DATE:** September 28, 2021

**SUBJECT:** Resolution 2021-89 to update and restate the City's Surplus Lands Act Declaration for Property at APN 419-190-041

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### **RECOMMENDATION:**

Staff recommends that the City Council approve the attached resolution declaring pursuant to Government Code Section 54221 that real property owned by the City located at the Northeast corner of Highland Springs Road and Sun Lakes Blvd. (APN: 419-140-041) is surplus land and not necessary for the City's use, finding that such declaration is exempt from environmental review under the California Environmental Quality Act, and taking related actions.

### **BACKGROUND:**

The City is the owner in fee simple of certain undeveloped real property ("Property") located at the Northeast corner of Highland Springs Road and Sun Lakes Blvd. (APN: 419-140-041). Although the City completed the Surplus Lands Act process for this parcel, the authorizing resolution passed by City Council included a scrivener's error in the APN.

California Housing and Community Development (HCD) reached out to staff to correct the resolution. They confirmed that since the notice and maps correctly listed the APN, that correcting this resolution is the final action required.

### **FISCAL IMPACT:**

The sale of this property will generate additional revenue for the City that the City can use to acquire other properties, including distressed properties, so as to provide for greater economic opportunities for new development in the City. In addition, the sale of this property will allow the adjacent property to expand its parking lot and allow a new use to become a tenant in the shopping center which will bring more economic activity to the shopping center.

September 28, 2021

Page 2 of 2

**ALTERNATIVES:**

1. Approve Resolution 2021-89.
2. Don't approve Resolution 2021-89 and provide staff alternate direction.

**ATTACHMENTS:**

1. Resolution 2021-89  
<https://banningca.gov/DocumentCenter/View/9391/Att-1-Resolution-No-2021-89-Highland-Springs-Sunlakes-Blvd>
2. Original Resolution 2020-41 with Errors Highlighted  
<https://banningca.gov/DocumentCenter/View/9392/Att-2-Resolution-No-2020-41-with-Errors-Highlighted>
3. Notice of Surplus Lands Availability  
<https://banningca.gov/DocumentCenter/View/9389/Att-3-Notice-of-Availability-for-AB-1486-Compliance-for-Higland-Springs-Road-and-Sun-Lakes-Blvd-v1>
4. Letter from California HCD  
<https://banningca.gov/DocumentCenter/View/9390/Att-4-HCD-Letter>

Approved by:



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Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** **SUCCESSOR AGENCY**

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

**PREPARED BY:** **Laurie Sampson, Executive Assistant**

**MEETING DATE:** **September 28, 2021**

**SUBJECT:** **Resolution 2021-03 SA, Reconveying the Deed of Trust and Resolution 2021-04 SA, Terminating the Covenants, Conditions and Restrictions recorded on Banning Ventures, LLC (DBA Coyne Motorsports) Located at 2301 W. Ramsey Street (APN 538-162-016)**

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### **RECOMMENDATION:**

Staff recommends City Council approve Resolution 2021-03 SA, reconveying the Deed of Trust and Resolution 2021-04 SA, terminating the Covenants, Conditions and Restrictions recorded on Banning Ventures, LLC (dba Coyne Motorsports) located at 2301 West Ramsey Street (APN 538-162-016)

### **BACKGROUND:**

Banning Ventures, LLC (dba Coyne Motorsports) entered into a Disposition and Development Agreement (DDA) with the Community Redevelopment Agency and the City of Banning in 2011 (Resolution 2011-42). The DDA was created for the purpose of the purchase and development of 2301 West Ramsey Street (APN 538-162-016) establishing and maintaining a retail and recreational vehicle supply and dealership business.

Benefits detailed in the DDA include a lease with option to purchase for zero dollars, no later than 10 years from the commencement of the lease, and a \$300,000 Forgivable Agency Loan.

Conditions to receive these benefits included maintaining ownership of the building and business for 365 days after the execution of the lease, and generation of a minimum of \$600,000 in sales tax revenue for the City of Banning in the 10-year time frame.

In 2014 Banning Ventures, LLC requested an early purchase option, and this request was granted by the Oversight Board (2014-03 OB) and the California Department of Finance. They still inhabit this location 10 years later. The sales tax generated by Banning Ventures LLC (dba Coyne Motorsports) through June 30, 2021, is well over the \$600,000 required.

**JUSTIFICATION:**

The DDA and all conditions of the agreement terminated on August 24, 2021. Banning Ventures, LLC has met all of the criteria of the DDA and it is appropriate to release the Deed of Trust and the Covenants, Conditions, and Restrictions on the subject property.

**ALTERNATIVES:**

1. Approve Resolution 2021-03 SA and 2021-04 SA.
2. Do not approve Resolution 2021-03 SA or 2021-04 SA and provide staff with alternatives

**ATTACHMENTS:**

1. Resolution 2021-03 SA  
<https://banningca.gov/DocumentCenter/View/9383/Att-2-Resolution-2021-03-SA-Substitution-of-Trustee-and-Reconveyance>
2. Resolution 2021-04 SA  
<https://banningca.gov/DocumentCenter/View/9386/Att-5-Resolution-2021-04-SA-Termination-of-CCRs>
3. Disposition and Development Agreement  
<https://banningca.gov/DocumentCenter/View/9382/Att-1-Banning-Ventures-Disposition-and-Development-Agreement>
4. Document # 2014-0331530 Deed of Trust with Assignment of Rents  
<https://banningca.gov/DocumentCenter/View/9388/Att-3-Doc--2014-0331530-Deed-of-Trust>
5. Reconveyance of Deed of Trust  
<https://banningca.gov/DocumentCenter/View/9384/Att-4-Recon-of-2301-Ramsey-DOT>
6. Document # 2014-0331531 Declaration of Covenants, Conditions, and Restrictions  
<https://banningca.gov/DocumentCenter/View/9387/Att-6-Doc-2014-0331531-CCR>
7. Termination of Covenants, Conditions and Restrictions  
[https://banningca.gov/DocumentCenter/View/9385/Att-7-Term-of-CCRs\\_2301-Ramsey](https://banningca.gov/DocumentCenter/View/9385/Att-7-Term-of-CCRs_2301-Ramsey)

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**MEETING DATE:** September 28, 2021

**SUBJECT:** Updating Resolution 2021-75, a Joint Resolution Approving the I-10 Corridor Strategic Plan

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### **RECOMMENDATION:**

Staff recommend City Council approve the revised Resolution 2021-75.

### **BACKGROUND:**

City Council approved Resolution 2021-75 at their August 24, 2021 regular meeting. Since adoption, changes have been made to the final joint resolution through discussion with the other signing parties. City staff would like to update the text of the resolution accordingly.

### **ATTACHMENTS:**

1. Revised Resolution 2021-75 Approving a Joint Resolution Supporting the I-10 Strategic Corridor Plan  
<https://banningca.gov/DocumentCenter/View/9395/Att-1-Resolution-2021-75-as-Amended>
2. Resolution 2021-75 as passed on August 24, 2021  
<https://banningca.gov/DocumentCenter/View/9393/Att-2-Resolution-2021-075>
3. Proposed changes to Joint Resolution  
<https://banningca.gov/DocumentCenter/View/9394/Att-3-I-10-Resolution-MBMI-redline-08162021-002>

Approved by:

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

Douglas Schulze



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Tom Miller, Electric Utility Director  
Jim Steffens, Power Resources Manager

**MEETING DATE:** September 28, 2021

**SUBJECT:** Adopting Resolution 2021-83, "Authorizing Participation in the California Arrearages Payment Program to Request Funding for Unpaid Electric Utility Services Incurred During the Covid-19 Pandemic."

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### **RECOMMENDATION:**

The City Council consider adopting Resolution 2021-83:

1. Authorizing the City of Banning Electric Utility ("Utility") to participate in the California Arrearages Payment Program ("CAPP") to request State funding for certain eligible customer accounts with past due electric bills incurred during the COVID-19 pandemic.
2. Authorize the Electric Utility Director, or his or her designees, to execute program participation on behalf of the City of Banning ("City") and the Utility.

### **BACKGROUND:**

The COVID-19 pandemic resulted in economic stress for many Californians, resulting in many people being unable to pay their electric utility bills. To address this issue, on July 16, 2021, Governor Newsom signed AB 135, which created the CAPP to administer funding for electric utility customer arrearages. There is \$993.5 million in the program: \$694.9 million for Investor-Owned Utilities and \$298.5 million for Publicly Owned Utilities. The California Department of Community Services and Development ("CSD") is administering the CAPP.

The CAPP is unique in that the electric utilities apply for the funds on behalf of their customers; the customers themselves do not need to apply to receive assistance under the CAPP. The CAPP funds will be sent directly to the City, and then if a customer account is eligible and there is sufficient funding, the City will apply a bill credit to the customer's account. In order for a customer to be eligible, they must be either a residential or

commercial customer who has a past due balance that was incurred during the COVID-19 pandemic relief period covering March 4, 2020 through June 15, 2021. Staff has estimated that the Utility currently has approximately 1,800 eligible customers with just over \$1.0 million dollars in arrearages. The Utility should be notified around October 1<sup>st</sup> how much funding it is going to be allocated. Once the allocation amount has been reported, the Utility will have 60 days to complete and submit a CAPP Application to CSD. CSD will then review the Application for approval and disperse the funds directly to the City. Upon receiving the CAPP funds, the City will then have 60 days to disperse the funds to the eligible customers in the form of a bill credit along with a statement that the source of the credit is California's CAPP funding.

Because it is likely that there will be more eligible customer arrearages than there is funding, the CAPP has set up the following four priority categories. For example, the City must apply bill credits to all the eligible customer arrearages in the first category before moving to the second category, and so on, until all the money is exhausted.

1. Active residential customers with past due balances who are at risk of disconnection due to non-payment.
2. Active residential customers with past due balances (but who are not at risk of disconnection).
3. Inactive residential customers with past due balances.
4. Commercial customers with past due balances.

The CAPP stipulates that the City shall not disconnect CAPP benefit recipients for 90 days after the bill credit is applied. If a customer account has a remaining balance after the bill credit is applied, the City shall notify the customer of the option to enter an extended payment plan with late fees and penalties waived.

### **JUSTIFICATION:**

The COVID-19 pandemic has resulted in negative economic consequences for many of the City's residents, with many residents falling behind in the payment of their electric utility bills. The CAPP will provide much-needed financial assistance to certain eligible customers in the form of bill credits, reducing the amount of past due sums that they owe on their electric utility bills. As a side benefit, the Utility's account receivables will be reduced.

### **FISCAL IMPACT:**

There is no anticipated direct fiscal impact to participate in the CAPP, other than staff time required to complete the required surveys, applications, and account adjustments to participate in the programs. All funding received from the CAPP will be applied as bill credits to customer accounts after receipt from the program.

September 28, 2021

Page 3 of 3

However, to the extent that an account would have been sent to collections or written off as bad debt if not for the funding provided by the CAPP, the Utility's collections costs and bad debt expenses will be reduced.

**ALTERNATIVES:**

1. Authorize the Utility's participation in the CAPP.
2. Do not authorize participation in the CAPP, in which case the City will be foregoing State funding to assist certain eligible customers in reducing past due electric utility bills incurred during the COVID-19 pandemic.

**ATTACHMENT:**

1. Resolution 2021-83

<https://banningca.gov/DocumentCenter/View/9381/Resolution-2021-83-Resolution-CAPP>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL  
**FROM:** Douglas Schulze, City Manager  
**PREPARED BY:** Carla Young, Business Support Manager  
**MEETING DATE:** September 28, 2021  
**SUBJECT:** San Gorgonio Substation Construction Contract

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### **RECOMMENDATION:**

Staff respectfully recommends that the City Council consider approving City Council Resolution 2021-81, which would:

1. Award the contract for construction of San Gorgonio Substation, in the amount of \$3,629,128.80, including 10% contingency, to Electric Power Systems International, Inc., pursuant to Public Contract Code (PCC) Section 22002(c)(3); and
2. Appropriate funds to the Electric capital improvement fund and authorize the City Manager and/or designees to complete and execute all documents related to this transaction for construction.

### **BACKGROUND:**

June 9, 2020, City Council awarded Electric Power Systems (EPS) the contract for award of a \$6.6 million construction contract that included a 10% contingency for the construction of the Stagecoach and Ivy Substations. The award was made pursuant to Public Contract Code Section 22002(c)(3), which authorizes construction of publicly owned utility substations without further compliance with the Public Contract Code.

### **JUSTIFICATION:**

The Electric Utility is currently in the process of system standardization to improve safety within the operations of the utility. This includes equipment standardization to expand continuity and reliability throughout the City. EPS is the sole provider in the west coast area that not only can provide the standardized breakers being used in the other electric substations, but they also have certified trained staff to install these breakers properly.

**FISCAL IMPACT:**

Funds to be appropriated to the Electric capital improvement fund in the amount not to exceed \$3,629,128.80. which includes a \$10% contingency.

<b><u>Year</u></b>	<b><u>Estimated Amount</u></b>
2021/2022	\$3,629,128.80

**ALTERNATIVES:**

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

**ATTACHMENTS:**

1. Resolution 2021-81  
<https://banningca.gov/DocumentCenter/View/9400/Att-1-Resolution-2021-81>
2. EPS Quote  
[https://banningca.gov/DocumentCenter/View/9398/Att-2-2021-81\\_EPS\\_LAX-DH-Q21136R1---City-of-Banning---San-Gregorio-Substation-003](https://banningca.gov/DocumentCenter/View/9398/Att-2-2021-81_EPS_LAX-DH-Q21136R1---City-of-Banning---San-Gregorio-Substation-003)
3. Contract C00727 Electric Power Systems  
<https://banningca.gov/DocumentCenter/View/9399/Att-3-C00727-ELECTRIC-POWER-SYSTEMS-INTERNATIONAL-INC>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Second Reading of Ordinance 1577 Incorporating Micro-Businesses into the Banning Municipal Code (BMC) by Amending Chapters 5.33 and 5.35 of Title 5 and Chapters 17.04, 17.08, 17.12, 17.20, and 17.53 of Title 17 and Making Findings in Accordance with CEQA

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### **RECOMMENDATION:**

Staff recommends that the City Council waive further reading and adopt Ordinance No. 1549, an Ordinance of the City of Banning, amending chapters 5.33 and 5.35, of Title 5, and chapters 17.04, 17.08, 17.12, 17.20, and 17.53 of the Banning Municipal Code to establish zoning standards for cannabis microbusinesses; and find that in accordance with CEQA Guidelines Section of the California Environmental Quality Act (CEQA) Guidelines that the Transportation Uniform Mitigation Fee (TUMF) Program is not a "project" within the meaning of Section 15060(c)(3) and Section 15061(b)(1) of the CEQA Guidelines and is therefore exempt from the requirements of CEQA. Ordinance No. 1577 will have no effect on the environment.

### **BACKGROUND:**

On July 10, 2018, the City Council adopted Ordinance 1523 which established provisions for a conditional use permit process for cannabis cultivation, manufacturing level 1, and testing laboratory facilities within the Industrial zoning district. In addition to this ordinance, the City Council also adopted Ordinances 1527 and 1528, placing Measures N and O on the November 2018 General Election Ballot. Measure N established a cannabis cultivation tax at \$15 per square foot of canopy space, but contained provisions allowing the City Council, without the vote of the people, to adjust this tax by either reducing the rate, or increasing the rate up to \$25 per square foot of canopy space. Measure N also established a tax on commercial cannabis cultivation, manufacturing, and testing laboratories at 10% of the gross receipts of the business. Measure O established a tax on cannabis retailers at 10% of gross receipts of the business. Both measures were approved by the voters.

The City Council also adopted two ordinances that authorized cannabis retailers to develop within the City subject to conditional use permit (CUP) approvals and regulatory permit process.

On June 23, 2020, the City Council approved Ordinance 1564 to reduce the tax on cannabis cultivation facilities.

July 14, 2020, the City Council approved Ordinance 1565 allowing cannabis distribution facilities in the Industrial Zoning District contingent on approval of Measure L, a measure to impose a 10% tax on cannabis distribution facilities.

November 3, 2020, Measure L passed approving the 10% tax on cannabis distribution facilities and Ordinance 1565 became effective allowing cannabis distribution facilities in the Industrial Zoning District.

November 10, 2020, the City Manager requested direction from the City Council regarding increasing the number of cannabis retailers allowed in the City and the possibility of allowing cannabis microbusinesses to operate in the City. The Council directed Staff to bring back information regarding cannabis microbusinesses, and to consider increasing the number of cannabis retailers. No final action on either of those changes was approved at that meeting.

On March 23, 2021, the City Council held a Workshop regarding Cannabis microbusinesses. At that Special Meeting of the City Council, Placeworks, Inc., a community planning and design organization, presented a power point presentation regarding cannabis microbusinesses. The City Council hosted this discussion item to solicit public testimony and provide direction to City staff regarding several provisions of the proposed amendment to the Cannabis Ordinance. No decision was made; however, staff did receive direction to proceed on a path to update the City's Cannabis Program. Upon conclusion of this discussion item, the City Council directed City staff to process an ordinance amendment that incorporates cannabis microbusinesses into the cannabis program.

At the meeting of June 2, 2021, the Planning Commission considered Zoning Text Amendment 21-97501 and discussed how allowing cannabis microbusinesses to operate in the city would impact existing retailers and the City's current cap of only permitting one retailer for every 10,000 residents. The Planning Commission asked Staff specific questions and the meeting was continued to July 14, 2021, to allow Staff time to research the questions posed by the Commission.

At the meeting of August 24, 2021, the City Council of the City of Banning held a public hearing on the proposed microbusiness ordinance, at which time all persons interested had the opportunity and did address the City Council on these matters. Following the receipt of public testimony, the City Council closed the public hearing, and directed staff to revise the ordinance recommended by the Planning Commission as follows: (1) not limit cannabis microbusinesses to non-storefront microbusinesses only; (2) eliminate the cap on microbusiness; (3) and include a 200-foot separation requirement from residentially zoned property.

At the meeting of September 14, 2021, the City Council introduced the first reading of the Ordinance Amendment without imposing a limitation on the number of microbusiness

applications. Furthermore, the Council eliminated the Planning Commission recommended prohibition on a full retail component in lieu of delivery-only activity. The Council retained the 200-foot setback between the microbusiness and residentially zoned property, only when the established microbusiness contains a retail component.

**JUSTIFICATION:**

Proposed amendments to the Banning Municipal Code

Title 3 (Revenue and Finance), Chapter 3.15 (Cannabis Retailer Tax), Section 3.15.020 (Definitions.), to add a definition for “Cannabis Microbusiness.”

Title 3 (Revenue and Finance), Chapter 3.15 (Cannabis Retailer Tax), Section 3.15.030 (Tax imposed on cannabis retailers.), to add a new subsection “D” to impose a tax on cannabis microbusinesses based on the tax rate of each component of the business (retailer, cultivation, distribution, and/or manufacturing).

Title 3 (Revenue and Finance), Chapter 3.17 (Cannabis Industrial Tax), Section 3.17.020 (Definitions.), to add a definition for “cannabis microbusiness.”

Title 3 (Revenue and Finance), Chapter 3.17 (Cannabis Industrial Tax), Section 3.17.030 (Tax imposed on commercial cannabis cultivation, manufacturing, distribution, and testing laboratory facilities.), relabel existing Subsection “D” as Subsection “E” and add a new Subsection “D” to impose a tax on cannabis microbusinesses based on the tax rate of each component of the business (retailer, cultivation, distribution, and/or manufacturing).

Title 5 (Business Licenses and Regulations), Chapter 5.33 (Cannabis Retailer Regulatory Permits), Section 5.33.010 (Definitions.), to add a definition for “cannabis microbusiness.”  
Title 5 (Business Licenses and Regulations), Chapter 5.33 (Cannabis Retailer Regulatory Permits), Section 5.33.020 (Cannabis regulatory permit required.), to add a new Subsection “E” to provide that a cannabis microbusiness is subject to the requirements of Chapter 5.35.

Title 5 (Business Licenses and Regulations), Chapter 5.35 (Cannabis Regulatory Permits), 5.35.010 (Definitions.), to amend the definition of “Cannabis business” and add a definition of “cannabis microbusiness.”

Title 5 (Business Licenses and Regulations), Chapter 5.35 (Cannabis Regulatory Permits), 5.35.050 (Additional application requirements.), to add a new Subsection “E” to identify the application requirements for cannabis microbusinesses.

Title 8 (Health and Safety), Chapter 8.48 (Nuisances), Section 8.48.330 (Manufacture or sales of drugs.), adding, “Any real or personal property utilized in the manufacture, sales, or storage of any drug which is illegal under any state or federal law is declared a nuisance. This section shall not apply to the manufacture, sale or storage of marijuana or cannabis permitted under Chapters 5.33, 5.34, and 5.35 of this Code.”

Title 17 (Zoning), Division I (General Provisions), Chapter 17.04 (Basic Provisions), 17.04.070 (Definitions.), to add definitions for “Cannabis Distribution Facility,” and Cannabis microbusiness and to amend the definition of “Other Cannabis Uses.”

Title 17 (Zoning), Division II (Land Use Districts), Chapter 17.08 (Residential Districts), Article I (General Provisions), Section 17.08.020 (Permitted, conditional and prohibited uses.) to add “Cannabis Distribution,” and “Cannabis Microbusiness” as prohibited uses.

Title 17 (Zoning), Chapter 17.12 (Commercial and Industrial Districts), Section 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Uses), to amend Table 17.12.020 to add “Cannabis Microbusiness” as a conditionally permitted use and to add Footnote 11 to read as follows; A Cannabis Microbusiness shall require approval of a Cannabis Conditional Use Permit by the City Council, after recommendation by the Planning Commission, and shall be subject to the requirements of Chapter 17.53.

Title 17 (Zoning), Chapter 17.12 (Commercial and Industrial Districts), Section 17.12.050 (Use Specific Development Standards), to add new lines for “Cannabis Distribution Facility” and “Cannabis Microbusiness to the Table and adding Subsections Z and AA to provide that cannabis distribution facilities and cannabis microbusinesses require the approval of a cannabis conditional use permit by the City Council after recommendation by the Planning Commission.

Title 17 (Zoning), Chapter 17.16 (Public Facilities Districts), Section 17.16.020 (Permitted, Conditional and Prohibited Public Facilities Uses), to add lines for “Cannabis Distribution Facility,” and “Cannabis Microbusiness,” as prohibited uses.

Title 17 (Zoning), Chapter 17.20 (Open Space Districts), Section 17.20.020 (Permitted, Conditional and Prohibited Open Space Uses) to add lines for “Cannabis Distribution Facility,” and “Cannabis Microbusiness,” as prohibited uses.

Title 17 (Zoning), Chapter 17.53 (Cannabis Conditional Use Permits), Section 17.53.010 (Definitions.), to amend the definition of “Cannabis Business,” and add a definition for “Cannabis Microbusiness.”

Title 17 (Zoning), Chapter 17.53 (Cannabis Conditional Use Permits), Section 17.53.100 (Security.), to amend subsection “D” to require that a cannabis distributor and cannabis microbusiness hire 24-hour security.

Title 17 (Zoning), Chapter 17.53 (Cannabis Conditional Use Permits), Section 17.53.120 (Signage.), to add a new Subsection “F” to address signage requirements for a cannabis microbusiness.

Title 17 (Zoning), Chapter 17.53 (Cannabis Conditional Use Permits), relabeling and relocating Sections 17.53.200 through 17.53.210 as Sections 17.53.210 through 17.53.220.

Title 17 (Zoning), Chapter 17.53 (Cannabis Conditional Use Permits) adding a new Section 17.53.200 (Cannabis Microbusinesses.) to establish operational regulations for cannabis microbusinesses.

Title 17 (Zoning), Chapter 17.54 (Cannabis Retailer Conditional Use Permits), Section 17.54.010 (Definitions.), to add a definition for “Cannabis microbusiness.”

Title 17 (Zoning), Chapter 17.54 (Cannabis Retailer Conditional Use Permits), Section 17.54.020 (Cannabis retailer conditional use permit required), to add a new Subsection “C” to provide that a cannabis microbusiness with a retail component is subject to Chapter 17.53.

Title 17 (Zoning), Chapter 17.54 (Cannabis Retailer Conditional Use Permits), Section 17.54.200 (Expiration), to correct the days allowed to submit for building permits from 30 to 45 days.

### **ENVIRONMENTAL DETERMINATION:**

#### California Environmental Quality Act (CEQA)

Planning Division staff and the Planning Commission have determined that the adoption of this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to the State CEQA Guidelines Section 15060(c)(3),) because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of this Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to this Ordinance will require a discretionary permit and CEQA review and will be analyzed at the appropriate time in accordance with CEQA.

Moreover, even if the adoption of this Ordinance is a project, it is exempt from review under the CEQA and the State CEQA Guidelines Section 15061(b)(1)), which exempts a project from CEQA if the project is exempt by statute. Business and Professions Code Section 26055(h) provides that Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. Pursuant to that exemption, Title 17 of the Banning Municipal Code provide that conditional use permit applications for cannabis microbusinesses will be required to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. Additionally, conditional use permits for cannabis microbusinesses are subject to discretionary review by both the Planning Commission and the City Council.

#### Multiple Species Habitat Conservation Plan (MSHCP)

This proposed Ordinance does not relate to any one physical project and is not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of the MSHCP, including mitigation through payment of the MSHCP Mitigation Fee.

**FISCAL IMPACT:**

City staff has dedicated time associated with the preparation of this report, cost that will be reimbursed through the application of development review fees. There is no specific appropriation of funds requested. This ordinance amendment will create zoning capacity to increase the number of cannabis businesses within the City of Banning which have the potential to raise additional revenue; however, the amount is not quantifiable at this time.

**PUBLIC COMMUNICATION:**

Proposed Municipal Code Amendment was advertised in the Record Gazette newspaper on September 3, 2021. As of the date of this report, staff has not received any written comments on the project.

**ALTERNATIVES:**

1. Approve as recommended.
2. Direct staff to amend the ordinance and return to City Council.
3. Direct staff to return the ordinance to the City Planning Commission for further review.

**ATTACHMENTS:**

1. City Council Ordinance 1577  
[https://banningca.gov/DocumentCenter/View/9319/Att-1-Ordinance-1577\\_CC-Attachment-1\\_ordinance-1577\\_final\\_9721](https://banningca.gov/DocumentCenter/View/9319/Att-1-Ordinance-1577_CC-Attachment-1_ordinance-1577_final_9721)
2. Zoning Map  
[https://banningca.gov/DocumentCenter/View/9442/Attch-2\\_Ordinance-1577\\_zoning-map](https://banningca.gov/DocumentCenter/View/9442/Attch-2_Ordinance-1577_zoning-map)
3. Public Hearing Notice  
[https://banningca.gov/DocumentCenter/View/9440/Attch-3\\_PHN-ZTA-21-97501-Proof-of-Publication](https://banningca.gov/DocumentCenter/View/9440/Attch-3_PHN-ZTA-21-97501-Proof-of-Publication)
4. Notice of Exemption  
[https://banningca.gov/DocumentCenter/View/9441/Attch-4\\_Ordinance-1577\\_CC-Attachment-5\\_NOE- md](https://banningca.gov/DocumentCenter/View/9441/Attch-4_Ordinance-1577_CC-Attachment-5_NOE- md)

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Suzanne Cook, Finance Director  
Shiloh Rogers, Purchasing Manager

**MEETING DATE:** September 28, 2021

**SUBJECT:** Update the Environmentally Preferable Purchases and Practices Policy (EPPP) and Recycled Products Purchasing Policy (RCP) B-37

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### **RECOMMENDATION:**

Update the Environmentally Preferable Purchases and Practices Policy (EPPP) and Recycled Products Purchasing Policy (RCP) B-37 to include CalRecycle provisions that take effect January 1, 2022, per Senate Bill (SB 1383).

### **BACKGROUND:**

On December 8, 2020, City Council adopted EPPP & RCP Policy B-37 directing and encouraging the city to demonstrate environmental responsibility by reducing its burden on the local and global environment, removing unnecessary hazards from its operations, protecting public health, reducing costs and liabilities, and potentially improving the environmental quality of the region by procuring environmentally friendly products and services.

On November 3, 2020, The State of California (CalRecycle), received the Notice of Approval of Regulatory Action approving SB 1383 which requires all public agencies to adopt, or amend their purchasing policies to include and reference provisions, standards and goals set forth in SB 1383 to procure recycled organic material such as renewable energy, compost, and mulch.

The enforcement provisions in SB 1383 will assist with achieving the state's climate goals and the 75 percent organic waste diversion goal by 2025 and into the future. Regulated entities are required to maintain records that demonstrate how they are complying with the law.

**JUSTIFICATION:**

The city must update its current EPPP & RCP Policy B-37 in order to comply with State requirements as contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383 procurement regulations) to procure a specified amount of Recovered Organic Waste Products to support Organic Waste disposal reduction targets.

**FISCAL IMPACT:**

N/A.

**ALTERNATIVES:**

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

**ATTACHMENTS:**

1. Environmentally Preferable Purchases and Practices Policy (EPPP) and Recycled Products Purchasing Policy (RCP) B-37  
<https://banningca.gov/DocumentCenter/View/9439/Attachment-1---Environmentally-Preferable-Purchases-and-Practices-Policy-EPPP-and-Recycled-P>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** BANNING UTILITY AUTHORITY

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Art Vela, Director of Public Works/City Engineer  
Perry Gerdes, Water / Wastewater Superintendent

**MEETING DATE:** September 28, 2021

**SUBJECT:** Approving an Emergency Purchase Order for Programmable Logic Controller (PLC) Replacement and Programming at the City of Banning Wastewater Treatment Plant (WWTP) Completed by Prime Systems Industrial Automation, Inc, of Riverside, California in the Amount of \$37,500

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### **RECOMMENDATION:**

Staff recommends the following:

1. Approving the emergency purchase order for PLC replacement and programming at the WWTP completed by Prime Systems Industrial Automation, Inc. of Riverside, California in the amount of \$37,500.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the emergency purchase order with Prime Systems Industrial Automation Inc. ("Prime Systems") for the WWTP PLC replacement and programming.

### **BACKGROUND:**

The City of Banning owns and operates its own wastewater systems. Which include the following: One hundred and nine (109) miles of sewer collection mains, four (4) wastewater lift stations and the WWTP that occasionally need electrical and mechanical repairs. The City currently contracts out the operation and maintenance of the WWTP and lift stations to Suez.

The WWTP was last upgraded in 1999 which included: new head works, boiler room, drying beds, generator and PLC. The PLC is an important piece of hardware/software that is utilized to automatically control the following: bar screen, grit cyclone unit, primary digester sludge pumps, temperature controls and the gas production of digesters.

The existing PLC recently failed causing the automated controls to cease which required that staff manually control the system around the clock. The PLC was temporarily repaired and future repairs are not possible due to the unit being obsolete. Staff decided that it was in the best interest of the City to move forward with an emergency purchase order in order to expedite the installation and programming of a replacement PLC. Another failure of the PLC would again require around the clock monitoring and would increase the likelihood of failures at the WWTP.

Staff reached out to Prime Systems, a reputable and competitive contractor, that is familiar with the City's WWTP and PLC to provide a quote for the work.

**JUSTIFICATION:**

The City's purchasing policy (Policy No. B-30, Section 13 – Emergency Purchasing), allows for procurement of emergency services when there are *“situations where the safety and/or welfare of City residents or employees is at stake and/or immediate purchasing action is required to prevent serious economic or other hardship to the City.”*

In this particular case, a failure at the WWTP would lead to sewer overflows that could cause environmental and City property damage.

**FISCAL IMPACT:**

The cost for replacing the existing PLC and programming a new one is \$37,500. Funds for the repairs will come from Wastewater fund 680-8000-454.95-12.

**ALTERNATIVES:**

Reject the emergency repair purchase order and provide further direction to staff.

**ATTACHMENT:**

1. Quote from Prime Systems Industrial Automation, Inc.

<https://banningca.gov/DocumentCenter/View/9414/2021-06-Banning-WWTP-v1>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Accept the Right-of-Way Dedication for 1219 E. Nicolet Street  
(Assessor's Parcel Number 541-091-010) from Innovation  
Remodel Corporation for Public Road and Utilities Purposes

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### **RECOMMENDATION:**

Accepting the Right-of-Way dedication for 1219 E. Nicolet Street (Assessor's Parcel Number 541-091-010) from Innovation Remodel Corporation for public road and utilities purposes.

### **BACKGROUND:**

The property owner, Innovation Remodel Corporation submitted an application to develop the parcel of land located at 1219 E. Nicolet Street. As part of the Conditions of Approval for the project, the owner is required to dedicate the necessary right-of-way in order to construct the public improvements on Nicolet Street fronting the property.

### **JUSTIFICATION:**

It is essential to obtain the right-of-way to construct the required public improvements on Nicolet Street as set forth by the adopted General Plan and Circulation Element.

### **FISCAL IMPACT:**

There is no fiscal impact associated with this right-of-way acceptance.

### **ALTERNATIVE:**

City Council may not accept the right-of-way which would result in not acquiring the necessary right-of-way for the construction of public improvements on Nicolet Street and the owner would not be able to comply with the Conditions of Approval.

September 28, 2021

Page **2** of **2**

**ATTACHMENTS:**

1. Right-of-Way Dedication

<https://banningca.gov/DocumentCenter/View/9408/Attachment-1---Right-of-Way-Dedication>

2. Certificate of Acceptance

<https://banningca.gov/DocumentCenter/View/9407/Attachment-2---Certificate-of-Acceptance>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Art Vela, Public Works Director  
Holly Stuart, Public Works Program Manager

**MEETING DATE:** September 28, 2021

**SUBJECT:** Adopt Resolution 2021-86 Authorizing the Purchase of Two ENC EZ-Rider II CNG Buses from Creative Bus Sales through the utilization of the California Association for Coordination Transportation (CALACT) - Morongo Basin Transit Authority (MBTA) Competitive Bid Process in the amount of \$1,109,371

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### **RECOMMENDATION:**

Staff recommends that City Council adopt Resolution 2021-86:

1. Authorizing the purchase of two (2) ENC EZ-Rider II CNG Buses from Creative Bus Sales utilizing the CALACT-MBTA competitive bid process for a total purchase amount of \$1,109,371.
2. Authorizing the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to the purchase of two (2) ENC EZ-Rider II CNG Buses from Creative Bus Sales in the amount of \$1,109,371.

### **BACKGROUND:**

CALACT is a statewide, non-profit organization that has represented the interests of small, rural, and specialized transportation providers since 1984. Their membership is comprised of individuals and agencies from diverse facets of transportation, including operators of small and large systems, planning and government agencies, social service agencies, suppliers and consultants.

CALACT administers competitive processes for various types and sizes of transit vehicles to assist its members with procuring equipment. On behalf of CALACT, Morongo Basin Transit Authority (MBTA) advertised Request for Proposal #18-01. MBTA staff evaluated the proposals submitted in response to the solicitation and Creative Bus Sales of Chino,

California was awarded a contract through the authority of CALACT-MBTA joint procurement.

As a member of CALACT, the City is able to procure new buses through the CALACT-MBTA cooperative bid process. This process provides a compliant purchasing solution that allows the City to select vehicles that best meet its transit needs through a competitive bid process. As a result, staff recommends exercising the option to utilize the CALACT-MBTA award for the purchase of two (2) ENC EZ-Rider II CNG Buses in the amount of \$1,109,371.

**JUSTIFICATION:**

Provisions of Purchasing Policy B-30 identifies that cooperative bids prepared by and processed through local, state or federal government agencies, may be utilized by the City. City Council consent is required for such arrangements where purchases exceed \$25,000.

The purchase of these two (2) buses is necessary in order to maintain a reliable transit fleet to provide dependable transportation to the community.

**FISCAL IMPACT:**

An appropriation from the Transit Division to Account No. 610-5800-434.90-51 (Capital Expenditures/Automotive Equipment) in the amount of \$1,109,683 is necessary.

The expense is included as part of the City's 2021/2022 Short Range Transit Plan. State Transit Assistance (STA) funding will be made available, as a reimbursement, by the Riverside County Transportation Commission to cover the full amount.

**ALTERNATIVES:**

The City Council may choose to reject staff's recommendation and provide alternative direction.

**ATTACHMENTS:**

1. Resolution 2021-86

<https://banningca.gov/DocumentCenter/View/9411/Att-1-Resolution-2021-86>

2. MBTA Contract #18-01

<https://banningca.gov/DocumentCenter/View/9412/Att-2- CBS-18-01-Signed-Contract-CALACT>

3. MBTA Contract #18-01 Amendment

<https://banningca.gov/DocumentCenter/View/9413/Att-3-CBS-18-01-Signed-Scan-Ext-Yr-1---4521>

4. Creative Bus Sales Quote

<https://banningca.gov/DocumentCenter/View/9409/Att-4-CLASS-H--EZ-RIDER-II-CALACT-QUOTE>

5. SRTP Summary of Funding

<https://banningca.gov/DocumentCenter/View/9410/Att-5-Table40-SummaryofFundingRequests>

Approved by:



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Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Resolution 2021-89 Approving Revisions to the Compensation and Classification Plan

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### **RECOMMENDATION:**

City Council adopt Resolution 2021-89 approving revisions to the Compensation and Classification Plan and authorizing the City Manager or his designee to make necessary budget adjustments, appropriations, and transfers.

### **BACKGROUND:**

It is necessary to amend the City's Classification and Compensation Plan from time to time to maintain a current plan which reflects the budget amendments, organizational structure, and department needs. The adoption of Resolution 2021-89 would replace Resolution 2021-79.

### **JUSTIFICATION:**

Proposed changes to the Classification and Compensation Plan to include:

#### **Finance**

Add/reinstate/fund the Accountant (IBEW-General G56) position. The plan for the accountant position to provide support to the Accountant II positions, our senior accounting staff, with taking on some of their tasks and take over the training and auditing of the payroll duties which is currently performed by one of the Accountant IIs. This is a time-consuming task that has put extreme burden on this staff member and has prevented the ability to stay on-top of their current workload without the need for many overtime hours. This will also allow the Accountant II's the ability to perform the necessary reconciliations of the accounts and be available to support the ever-increasing projects of other departments needing the support of the finance department, and in addition learn some of the other tasks that will help the Finance Department with

continuity. The current Accounting Specialist, who has the experience and education, will be reclassified/promoted to this position, and we will recruit for the replacement.

**FISCAL IMPACT:**

**General Fund (001-1900)**

Initially this position will be charged to the General Fund finance department and then will be allocated accordingly through the Cost Allocation Plan.

Add/Reinstate/Fund - Accountant (G56 – Salary Range \$46,892.56-\$63,439.88) Step 13 with benefits \$113,539.38

Revisions to Class and Compensation Plan:

Add:		
Accountant		1

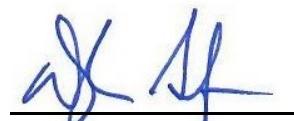
**ALTERNATIVES:**

1. Approve Resolution 2021-89 authorizing the revisions to the Classification and Compensation Plan and make the necessary budget adjustments, appropriation, and transfers.
2. Do not approve the resolution and provide direction to staff.

**ATTACHMENTS:**

1. Resolution 2021-89  
<https://banningca.gov/DocumentCenter/View/9401/Attachment-1---Reso-2021-89-Amended-Class-Plan>
2. Position Costs  
<https://banningca.gov/DocumentCenter/View/9402/Attachment-2---Position-Costs---Accountant>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Art Vela, Public Works Director  
Holly Stuart, Public Works Program Manager

**MEETING DATE:** September 28, 2021

**SUBJECT:** Continuation of the First Reading of Ordinance 1576 Amending and Restating Existing Title 8, Chapter 8.28, Garbage Collection and Disposal, of the Banning Municipal Code, and Finding an Exemption from CEQA under Sections 15061(b)(3) and 15308 of the CEQA Guidelines

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### **RECOMMENDATION:**

Staff recommends Council introduce the first reading of Ordinance 1576, amending and restating existing Title 8, Chapter 8.28, Garbage Collection and Disposal, of the Banning Municipal Code and finding an Exemption from CEQA under Sections 15061(b)(3) and 15308 of the CEQA Guidelines. If approved, a second reading will be scheduled and considered by Council on September 28, 2021. Adoption of Ordinance 1576 requires a two-thirds vote of the City Council.

### **BACKGROUND:**

The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989, ("AB 939" or the "Act") (codified at Public Resources Code §§ 4000 et seq.) established a solid waste management process which requires cities and other local jurisdictions to implement plans for source reduction, reuse and recycling as integrated waste management practices for solid waste attributed to sources within their respective jurisdictions.

The Act provides that aspects of solid waste handling of local concern include but are not limited to frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location and extent of providing solid waste services. The Act encompasses mandates including Assembly Bill (AB) 341 and AB 1826, as well as the newly adopted Short-Lived Climate Pollutants mandate, Senate Bill (SB) 1383.

Senate Bill 1383 builds on existing legislation, AB 341 and AB 1826. The purpose of SB 1383 is to reduce organic waste disposal, recover edible food waste from the waste

stream and reduce methane emissions. The goal of SB 1383 is to reduce greenhouse gas emissions to 40% below 1990 levels by the year 2030. To achieve this, the target is to reduce organic waste that ends up in the landfill by 50% by the year 2020 and 75% by the year 2025. In addition to reducing landfilled organics by 75%, the State will also be required to recover edible food that is currently thrown away by 20% through programs such as establishing edible food recovery programs. In order to achieve the reduction of landfilled waste and to increase recovery, the State has mandated the following:

1. Provide Organics Collection Services to All Residents, Multi-family Complexes and Businesses
2. Establish Edible Food Recovery Programs
3. Conduct Education and Outreach to the Community
4. Procure Recyclable and Recovered Organics Products
5. Secure Access to Recycling Capacity
6. Monitor Compliance and Conduct Enforcement

The schedule summarizing implementation requirements of SB 1383 is provided below:

SB 1383 Requirements		
January 1, 2022	Organics Recycling Programs for all accounts	Regulations take effect. Organics Recycling Programs for all accounts including businesses, multi-family complexes and residential units shall be implemented. Enforceable regulations will be required to take effect. Jurisdictions must implement an enforceable ordinance or ordinances.
January 1, 2022	Edible Food Recovery Programs (Tier 1)	As required by the State, jurisdictions must take progressive enforcement actions against non-compliant regulated Tier 1 entities including food service providers, food distributors, grocery stores (10,000+ Sq Ft), Supermarkets, and whole food vendors.
January 1, 2022	Local Ordinance and Purchasing Policy	To implement State mandate, the adoption of a local ordinance is necessary. Additionally, State mandate requires local jurisdictions procure recyclable and recovered organics products that meets or exceeds its assigned procurement target.
January 1, 2024	Edible Food Recovery Programs (Tier 2)	As required by the State, jurisdictions must take progressive enforcement actions against non-compliant regulated Tier 2 entities including hotels with an on-site food facility and 200+ rooms, health facilities with an on-site food facility and 100+ beds, state agency cafeterias with 5,000+ sq. ft. or 250+ seats, large venues, large events, and restaurant facilities that are 5,000+ sq. ft. or 250+ seats.

On April 27, 2021, Council approved a new collection services franchise agreement between the City and Waste Management of the Inland Empire (WM) for the Provision of Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection, Transportation, Recycling and Disposal Services. This franchise agreement became effective on July 1, 2021, and addresses requirements of the Act and SB 1383. Pursuant to the requirements of SB 1383, as well as the newly adopted franchise agreement, it is necessary to amend and replace existing Title 8, Chapter 8.28, Garbage Collection and Disposal, of the Banning Municipal Code. As outlined above, SB 1383 obligates jurisdictions to adopt a local ordinance addressing State mandates by January

1, 2022. Additionally, the franchise agreement identifies tax roll provisions for certain delinquent accounts be adopted by October 29, 2021.

The proposed ordinance, as presented to the City Council at the September 14, 2021, meeting addresses key elements including the following:

Collection Services: Trash, recyclable and organic collection services for all commercial, multi-family and residential accounts are required unless a commercial waiver is granted.

Commercial Edible Food Generator: These generators are required to recover the maximum amount of edible food that would otherwise be disposed in the waste stream and implement related programs. These generators shall maintain and provide record access to City staff.

Food Recovery Organizations: Shall maintain and provide record access to City staff.

Locking Containers: Commercial Edible Food Generators shall use locking bins to prevent access to unauthorized persons, animals, wind, rain, insects and rodents. Commercial or residential premises in the downtown area shall keep containers secured to prevent access to unauthorized persons, animals, wind, rain, insects and rodents. Accessible containers in the downtown area shall be locked. See below regarding modifications to the ordinance with respect to the downtown area.

Tax Roll, Delinquencies: Legal action may be pursued to collect unpaid fees and/or adding unpaid fees to the County Tax Roll.

Inspections and Investigations: City representative are authorized to conduct inspections and investigations to confirm compliance. Regulated entities shall provide access and cooperate with staff during the process.

Enforcement: Violation of any provision of this chapter shall constitute grounds for issuance of a penalty (e.g. failure to implement organics recycling collection services or programs, regulated food organizations not implementing edible food recovery programs or maintaining records, failure to permit access for inspections and investigations, etc.).

The first reading of Ordinance 1576, amending and restating existing Title 8, Chapter 8.28, was presented to the City Council on September 14, 2021, during its Regular Meeting. During discussion of this item, the City Council directed staff to define “hauler” and “downtown area”, as well as remove residential service recipients in the downtown area from being required to secure or lock containers.

Additionally, the City Council requested staff to clarify contractor and service recipient responsibilities regarding the repair and replacement of damaged containers. In

summary, pursuant to the City's franchise agreement with Waste Management of the Inland Empire, all service recipients, at no cost, are entitled to one replacement cart or bin every 10 years during the agreement term, for each service. This replacement applies to carts or bins that have been lost, stolen or damaged beyond repair through no fault of the service recipient. Further, Waste Management is responsible for the repair or replacement of carts and bins, including but not limited to, hinged lids, wheels and axles, and the removal of graffiti, at no cost to the service recipient. . For all collection services, Waste Management employees must take care in preventing damage to containers by unnecessary rough treatment. Any cart or bin damaged by Waste Management, and that is considered non-usable, will be replaced at no cost to the service recipient. (See attached pages of Waste Management's Franchise Agreement in Attachment 4 to this Staff Report).

Ordinance 1576, as presented, requires the Authorized Collector (meaning Waste Management) to provide and maintain containers. To clarify Waste Management and service recipient responsibilities, Section 8.28.180 and Section 8.28.210 of the ordinance were modified.

Following discussion, City Council voted to continue the public hearing and first reading of the ordinance to the September 28, 2021 regular City Council meeting so that the above items could be addressed prior to approval of the first reading.

#### **JUSTIFICATION:**

Proposed Ordinance 1576, amending and restating existing Title 8, Chapter 8.28, Garbage Collection and Disposal, must be approved to establish provisions of the new franchise agreement, and to obtain compliance with SB 1383.

#### **CEQA:**

Staff determined that proposed Ordinance 1576 is exempt from California Environmental Quality Act (Cal. Pub. Resources Code, § 21000 et seq., "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs., § 15000 et seq., the "CEQA Guidelines") pursuant to CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the enhanced solid waste regulations, as provided for in proposed Ordinance 1576 will not have a significant effect on the environment and that the new requirements, which strengthen requirements for the handling of solid waste, represent actions by a regulatory agency (the City) for the protection of the environment.

#### **FISCAL IMPACT:**

Penalty amounts for various types of violations will be phased in and begin January 1, 2024 as required by SB 1383 and outlined by Ordinance 1576 as shown below. Violation of any provision of this chapter shall constitute grounds for issuance of a penalty (e.g. failure to implement organics recycling collection services or programs, regulated food organizations not implementing edible food recovery programs or maintaining records, failure to permit access for inspections and investigations, etc.).

1. For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
2. For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
3. For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

**ALTERNATIVES:**

1. Direct staff to revise proposed Ordinance 1576
2. Reject proposed Ordinance 1576 and provide direction to staff.

**ATTACHMENTS:**

1. Ordinance 1576  
[https://banningca.gov/DocumentCenter/View/9405/Attachment-1-Banning-Solid-Waste-Ordinance\\_9162021](https://banningca.gov/DocumentCenter/View/9405/Attachment-1-Banning-Solid-Waste-Ordinance_9162021)
2. Redline changes to Banning Municipal Code Chapter 8.28  
<https://banningca.gov/DocumentCenter/View/9406/Attachment-2-Redline-Changes-to-BMC-Chapter-828-dated-9142021>
3. Public Notice  
[https://banningca.gov/DocumentCenter/View/9403/Attachment-3-Public-Notice-Affidavit\\_09-07-2021](https://banningca.gov/DocumentCenter/View/9403/Attachment-3-Public-Notice-Affidavit_09-07-2021)
4. Franchise Agreement – Replacement Cart Language  
<https://banningca.gov/DocumentCenter/View/9404/Attachment-4-Franchise-Agreement---Cart-Replacement-Language>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Doug Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Resolution 2021-90, considering a recommendation by the Planning Commission to approve Tentative Tract Map 37389, a proposed residential development of 16 lots, including one detention basin/open space lot. The tentative tract map also includes a new public street located adjacent to Hoffer Street & Gilman Street, between Cherry Street and Evans Street, finding the project will be categorically exempt from the requirements of the California Environmental Quality Act

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### **RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution 2021-90, considering a recommendation by the Planning Commission to approve Tentative Tract Map 37389 and determine that the Project is exempt pursuant to State CEQA Guidelines Section 15332 (Class 32 - Infill Developments).

### **BACKGROUND:**

The Tentative Tract Map went before the Planning Commission at the September 1, 2021 meeting and was approved with a vote of 4-0. Along with the tentative map, a conceptual architectural and site design of the homes were presented to the Commission. After reviewing the Project, the Commission did not have any further comment on the conceptual plans or additional conditions of approval. The applicants, Jose Mas (owner) and Rick Thomsen (agent) were present to address the Commissioner's questions. No members of the public attended to speak in support or opposition of the project.

### **DESCRIPTION:**

Tentative Tract Map (TTM) No. 37898, proposes to subdivide approximately 5 gross acres of vacant land into 15 single-family residential lots and create a new public street. The project is intended to be phased with a maximum of 5 homes being built at any one time, with the construction timeline anticipated to last at least 12-months.

Project Analysis:

TTM No. 37898 is located within the Low Density Residential (LDR) zone and allows for residential development with a minimum lot size of 7,000 square feet with an allowable maximum density of 5 dwelling units per acre (du/ac). Potentially, the proposed subdivision could yield 25 dwelling units at 5 du/ac. A total of 15 single-family homes are being proposed on 9,755 sq. ft. to 10,158 sq. ft lots, which is within the intended density for this zone. Minimum lot size dimensions for LDR zoned properties are minimum 70-foot width and 90-foot depth. Lots 1-8 & Lots 10-16 meet these dimensions as they are each approximately 72' x 135' in size, apart from Lot 9 located along Hoffer Street which is to be utilized as a detention basin (83' x 135').

Minimum setback requirements for LDR zoned properties are 20 feet front yard, 10 feet side yards, and 15 feet rear yards. A combination of 4-bedroom and 5-bedroom homes ranging in size from 2,200 sq. ft to 2,600 sq. ft will be placed among the lots that will keep in conformance with these setback requirements. Two-car and three-car garages are also being proposed, which would allow ample driveway depth and building distance requirements should these garages be detached as opposed to attached garages.

A maximum of 40% lot coverage, along with a maximum 0.35 one-story floor area ratio and 0.60 two-story floor area ratio are allowed within the LDR zone. Given the 10,000 sq. ft. average size of the lots, with the proposed average dwelling unit size of 2,400 sq. ft., an average 0.24 FAR and average 13% lot coverage is resulted. Thus, the future dwelling units are consistent with the maximum livable area and lot coverage set forth in the LDR zone.

Surrounding Land UseLand Use Summary Table

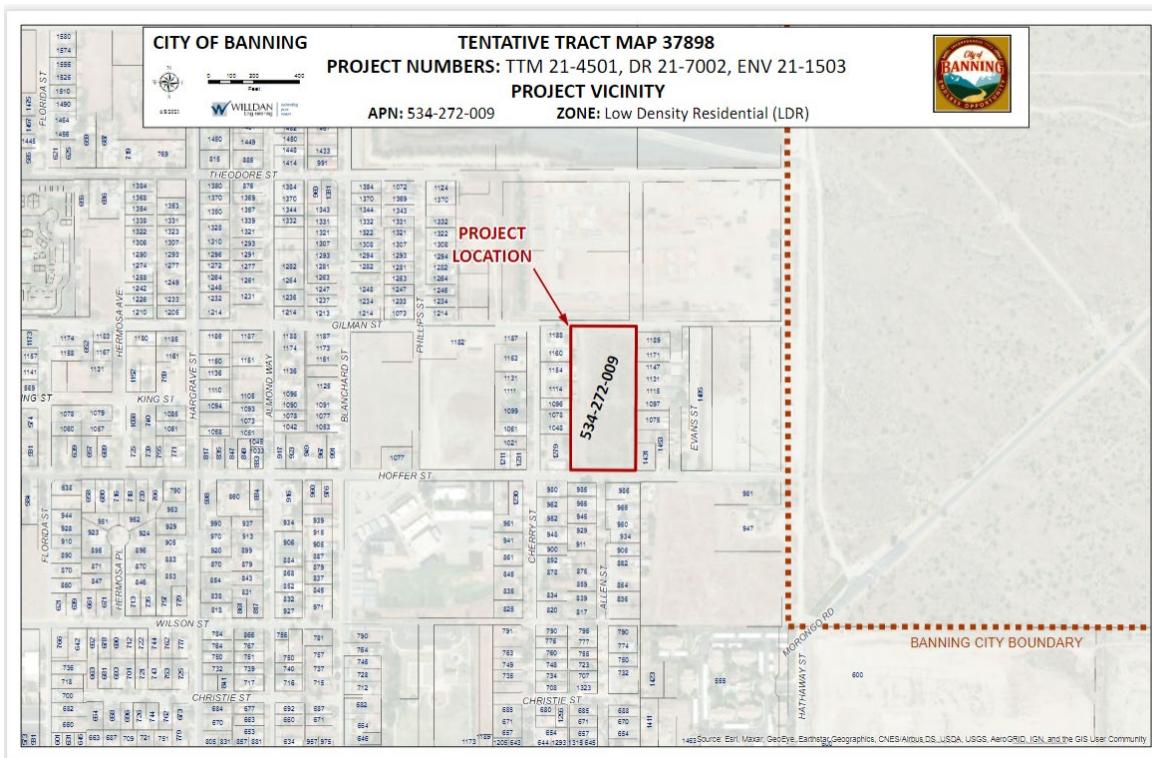
	Existing Land Use	Zoning Classification	General Plan Designation
Subject Site	Vacant	LDR	LDR
North	Vacant	IMR	IMR
South	Single-Family	LDR	LDR
East	Single-Family	LDR	LDR
West	Single-Family	LDR	LDR

# Staff Report: Resolution 2021-90 Approving TTM 37398

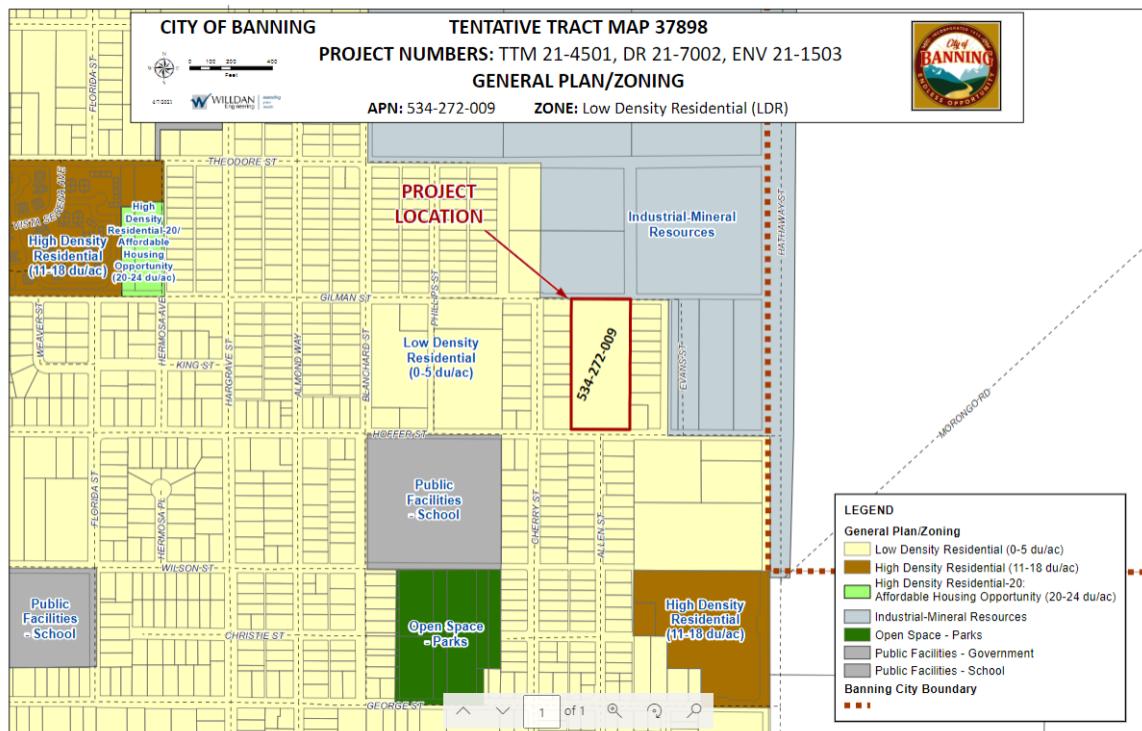
September 28, 2021

Page 3 of 5

**FIGURE 1.** Vicinity Map



**FIGURE 2.** Zoning Map



Tentative Maps

Per Section 16.12.070 of the Banning Municipal Code (BMC), an application for a tentative map shall be processed and set for a public hearing.

The City Engineer has determined that the proposed subdivision of land is in conformity with law and subdivisions code; and, that all the proposed lots will have adequate access to public streets, sanitary sewer lines, water mains, fire hydrants, drainage structures and utilities.

Streets/Circulation System

Access to the subdivision will be via “Street A” and will be newly created as a local street. This 60'-wide City street dedication that will connect Gilman Street and East Hoffer will include a new curb, gutter, and sidewalk.

Utilities

Electrical service will be provided by the City of Banning. The Electric Utility has provided conditions of approval that have been incorporated into the proposed project conditions. Permanent City of Banning electrical utilities will be underground, with the exception of temporary overhead electrical lines and pad-mount equipment, such as transformers and switchgear.

Water and wastewater services will be provided by the City of Banning.

Future City Approvals

Grading permits (rough and precise grading); encroachment permits, water sewer, and reclaimed water connection permits may be issued by the City of Banning Department of Public Works after approval of the proposed Tentative Tract Maps.

Additionally, a future Design Review application to approve the 15 proposed homes will be a separate application heard by the Planning Commission.

Environmental Determination:

California Environmental Quality Act (CEQA)

Planning Division staff has determined that this Project is categorically exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15332 (Class 32 - Infill Developments). Accordingly, staff has prepared a Notice of Exemption for the project.

Multiple Species Habitat Conservation Plan (MSHCP)

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

**PUBLIC COMMUNICATION:**

The proposed Project was advertised in the Record Gazette newspaper on September 17, 2021 (Attachment 3). As of the date of this report, staff has not received any verbal or written comments for or against the proposal. However, public comment was received by the Planning Division on August 30, 2021 (letter dated August 27, 2021) prior to the

September 1, 2021 Planning Commission hearing regarding support for the project and is attached hereto.

**FISCAL IMPACT:**

The fiscal impact of the Project is positive. If approved, the applicant anticipates generating additional revenue in the way of increased property taxes and sales tax generated by future residents. However, at this time staff is unable to quantify these positive impacts.

**ALTERNATIVES:**

1. The Council can Deny the Project.
2. The Council can refer the Project back to the Planning Commission; or
3. The Council can direct staff, and the applicant, to return with a revised Project.

**ATTACHMENTS:**

1. City Council Resolution 2021-90  
[https://banningca.gov/DocumentCenter/View/9468/Att-1-Draft-CC-Resolution\\_TTM-37898](https://banningca.gov/DocumentCenter/View/9468/Att-1-Draft-CC-Resolution_TTM-37898)
2. Planning Commission Resolution 2021-13  
[https://banningca.gov/DocumentCenter/View/9469/Att-2-PC-Resolution-2021-13\\_912021](https://banningca.gov/DocumentCenter/View/9469/Att-2-PC-Resolution-2021-13_912021)
3. Conditions of Approval  
[https://banningca.gov/DocumentCenter/View/9470/Att-3-COAs\\_TTM-37898](https://banningca.gov/DocumentCenter/View/9470/Att-3-COAs_TTM-37898)
4. Site Plans  
[https://banningca.gov/DocumentCenter/View/9471/Att-4-Site-Plans\\_TTM-37898\\_CC-Meeting](https://banningca.gov/DocumentCenter/View/9471/Att-4-Site-Plans_TTM-37898_CC-Meeting)
5. Project Plans  
<https://banningca.gov/DocumentCenter/View/9479/Att-5-Project-Plans>
6. Public Hearing Notice  
[https://banningca.gov/DocumentCenter/View/9477/Att-6-Public-Hearing-Notice\\_TTM-37898-wlogo-Final](https://banningca.gov/DocumentCenter/View/9477/Att-6-Public-Hearing-Notice_TTM-37898-wlogo-Final)
7. Notice of Exemption  
[https://banningca.gov/DocumentCenter/View/9478/Att-7-TTM-37898\\_NOE](https://banningca.gov/DocumentCenter/View/9478/Att-7-TTM-37898_NOE)

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Resolution 2021-84 Recommending the City Council make a determination of exemption under CEQA Guidelines Section 15301 and approve Conditional Use Permit 21-8012, to allow for commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 101 (APN: 541-220-023) in the Industrial (I) Zoning District

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### **RECOMMENDATION:**

Staff recommends the City Council adopt Resolution 2021-84, making a determination that the Project is exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) and approve Conditional Use Permit 21-8012 to allow for commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 101 (APN: 541-220-023) in the Industrial (I) zoning district.

### **BACKGROUND:**

The applicant, SJ Agrigrow Partners, LLC, is requesting approval of a Conditional Use Permit (CUP) to allow for the commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 101, Banning, CA 92220. For location, see Figure 1 below.

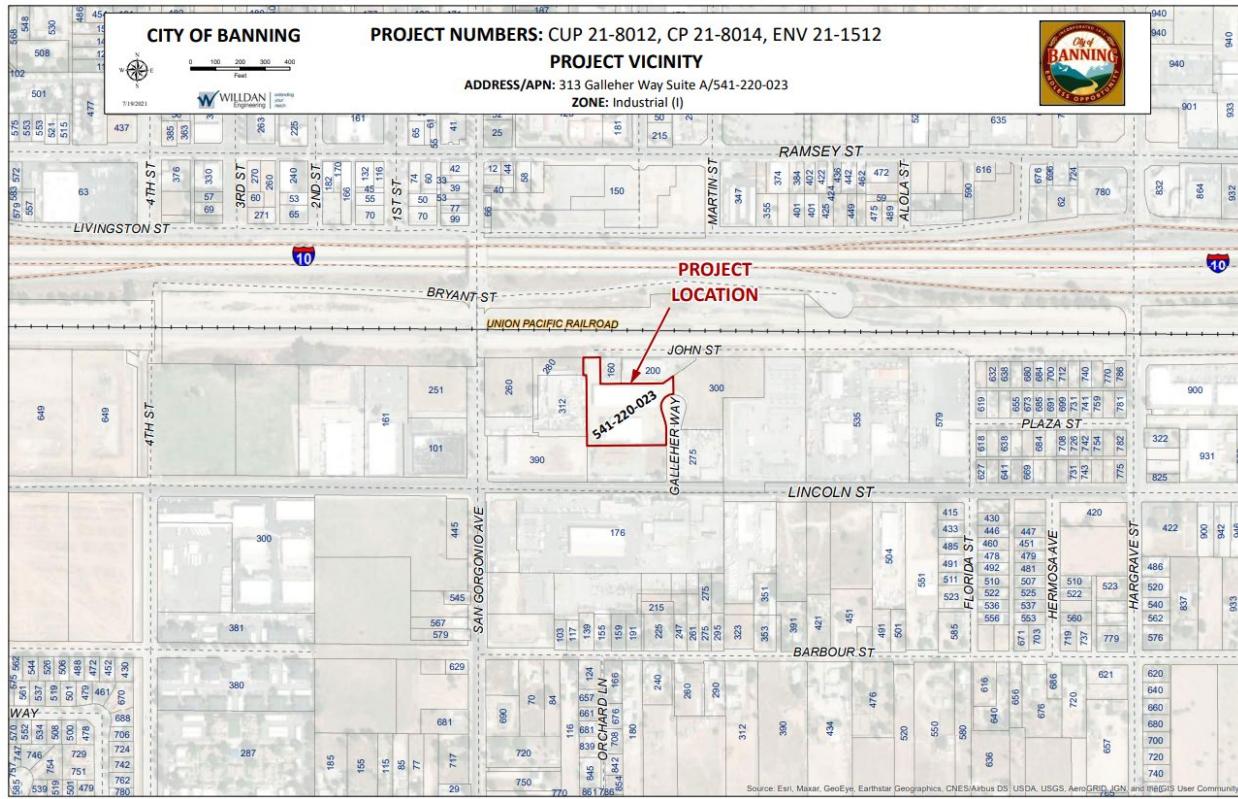
### **DESCRIPTION:**

The applicant is requesting approval to allow for the commercial cultivation of cannabis. The applicant proposes tenant improvements to the existing industrial building located at 313 South Galleher Way, Unit 101. This industrial building is approximately 20,000 square feet in floor area and is proposed to accommodate a lobby, office, storage room, security room, break room, grow rooms, dry and trim room, clone room and rest room.

In accordance with Banning Municipal Code (BMC), the applicant proposes a security plan with cameras, guards, and surveillance equipment. There will be adequate security

lighting and protocols to minimize potential security threats. Additionally, a two-stage air filtration system will be installed to prevent odors from leaving the premises.

**FIGURE 1**



### Surrounding Land Use

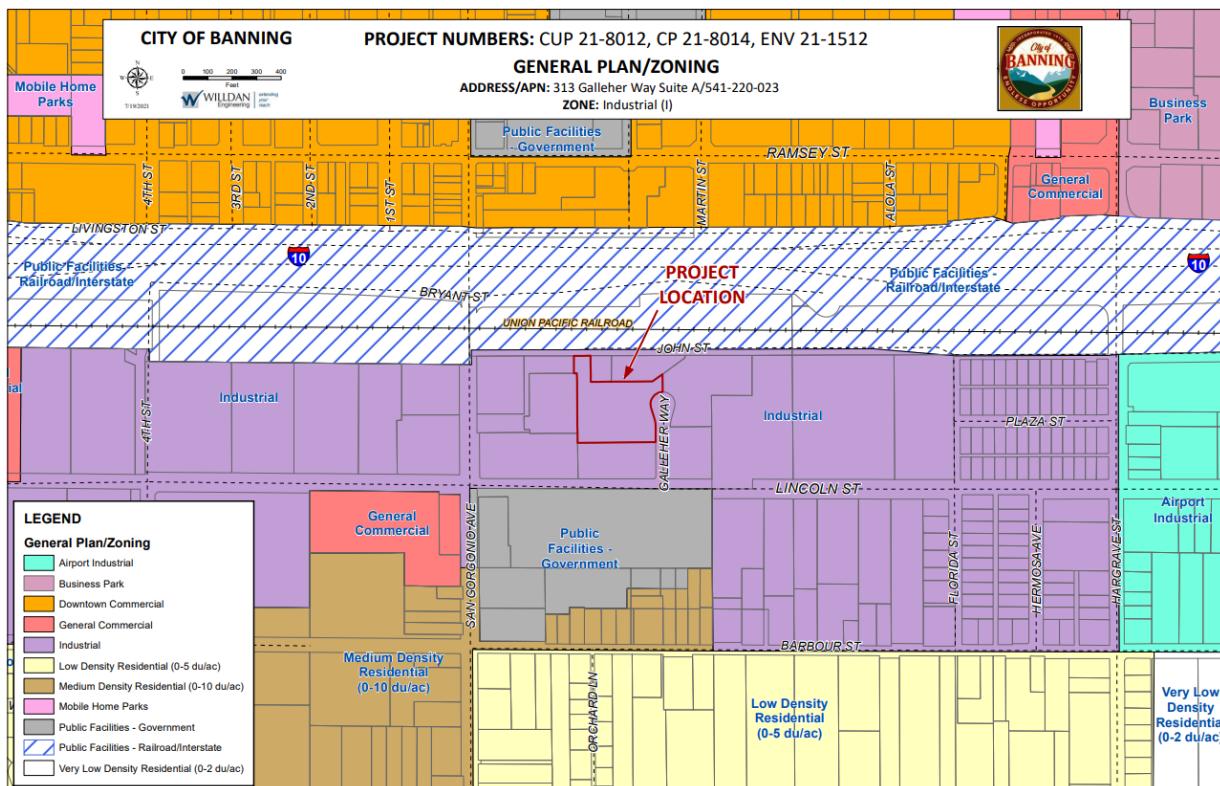
The site consists of two large industrial buildings that are separated by an outdoor common area. Building 101 is the area proposed for this project which is approximately 20,000 square feet in size. The property is surrounded by vacant and developed industrial uses and structures. The nature of the surrounding uses, zoning classifications, and General Plan land use designations are delineated for Planning Commission consideration in Table 1 and Figure 2, detailed below:

**Land Use Summary Table**

**TABLE 1**

	Existing Land Use	Zoning Classification	General Plan Designation
<b>Subject Site</b>	Developed Industrial	(I)	(I)
<b>North</b>	Developed Industrial	(I)	(I)
<b>South</b>	Developed Industrial	(I)	(I)
<b>East</b>	Developed Industrial	(I)	(I)
<b>West</b>	Developed Industrial	(I)	(I)

FIGURE 2



### Project Analysis:

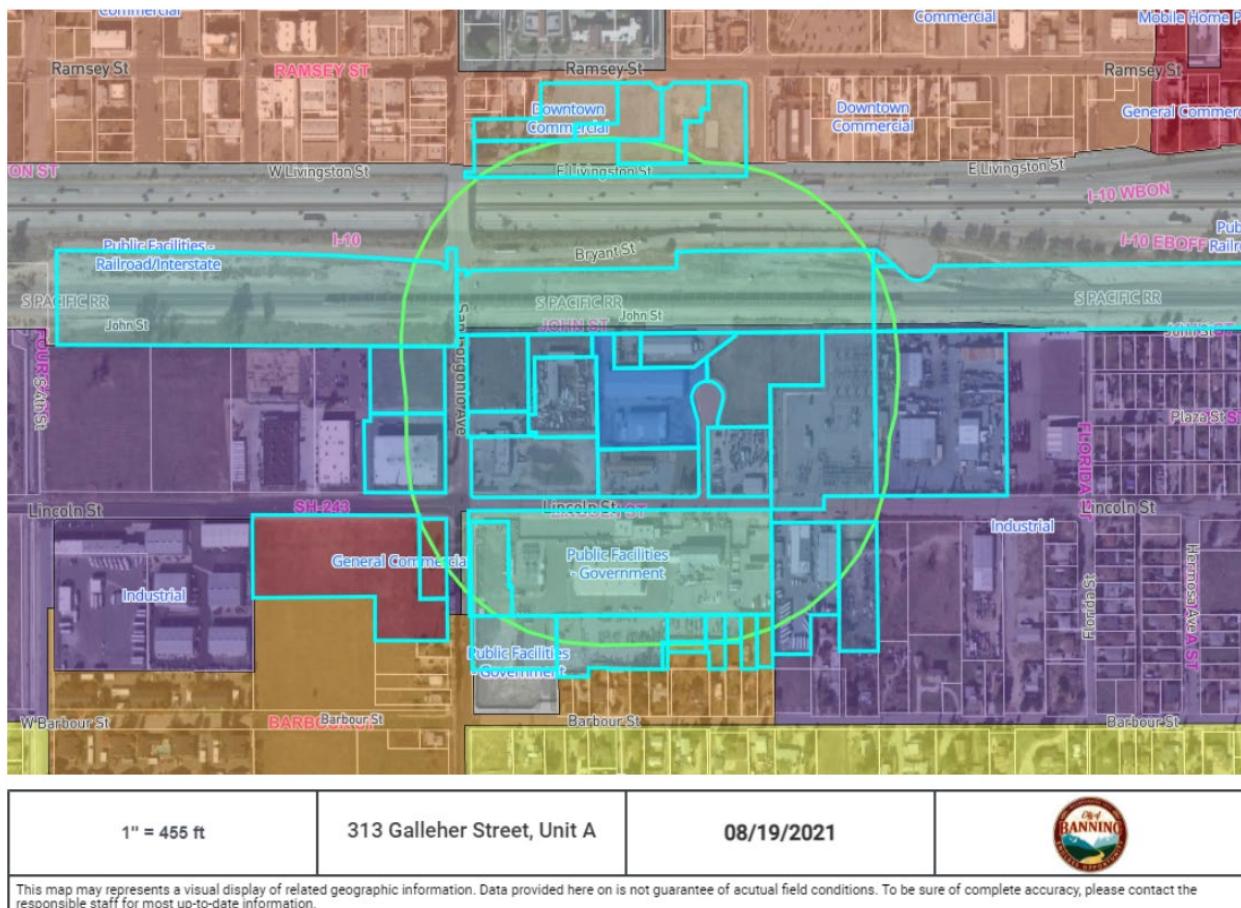
#### Zoning

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 Commercial Indoor Cultivation is 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.

Additional requirements identified in the Code state the cannabis cultivator must be at least 600-feet from any day care center, youth center, public or private school providing instruction in any public or private school setting, up to and including High School. The Project is not located within 600 feet of any public or private park. The proposed location of the Commercial Cannabis Cultivation facility is compliant with the above-mentioned requirements. For a radius map demonstrating the 600-foot buffer, see Figure 3 below.

**FIGURE 3**

CUP 21-8012, 600-Foot Radius Map



## **JUSTIFICATION:**

### **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 Planning Commission might want to impose, could include restrictions on the hours of business operation; restrictions on the number of clients or patients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted

by the business or other use; as well as any other conditions which could help make the use more compatible with the neighborhood in which it is proposed to be located.

**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 (see exception concerning Cannabis CUPs in Section 17.53.060 A. 1. below). 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 Title 17 of the Banning Municipal Code.
- C. The proposed use would not impair the integrity and character of the land use district in which it is to be located.
- D. The subject site is physically suitable for the type and intensity of land use being proposed.
- E. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.
- F. There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics.
- G. The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the city.

**Findings have been made and can be found in Planning Commission Resolution 2021-11 (attachment 1).**

BMC Section 17.53.060, Procedures, and Findings for Approval of Cannabis Conditional Use Permit, 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.

Staff believes that approval of the CUP will serve the community by providing a location for the cultivation of cannabis, providing for jobs and tax revenue, and assisting local cannabis retailers with product procurement.

*Environmental Determination:*

California Environmental Quality Act (CEQA)

Planning Division staff has determined that this Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15301 (Existing Facilities - Class 1 Categorical Exemption) because the project consists of the operation, repair, maintenance, permitting, leasing, licensing, and minor alteration of an existing private structure involving negligible or no expansion of an existing use, including interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.

Multiple Species Habitat Conservation Plan (MSHCP).

The project is not subject to MSHCP as the project is an existing facility with no expansion of the current structural footprint.

*Public Communication:*

Proposed Conditional Use Permit 21-8012 was advertised in the Record Gazette newspaper on August 20, 2021 (Attachment 3). As of the date of this report, staff has not received any written comments on the project.

**FISCAL IMPACT:**

The fiscal impact of the Project is positive. If approved, the applicant anticipates generating approximately \$100,000 in cannabis cultivation tax revenue for the first operating year and approximately \$200,000 per year for each remaining operation year.

<u>Year</u>	<u>Estimated Amount</u>
2021/2022	\$100,000
2022/2023	\$200,000

2023/2024	\$200,000
2024/2025	\$200,000
2025/2026	\$200,000

**ALTERNATIVES:**

1. The Council can Deny the Project.
2. The Council can refer the Project back to the Planning Commission; or
3. The Council can direct staff, and the applicant, to return with a revised Project.

**ATTACHMENTS:**

1. City Council Resolution 2021-84  
<https://banningca.gov/DocumentCenter/View/9372/Att-1-Resolution-2021-84-CUP-21-8012>
2. Planning Commission Resolution 2021-11  
<https://banningca.gov/DocumentCenter/View/9373/Att-2-Resolution-2021-11>
3. Conditions of Approval  
[https://banningca.gov/DocumentCenter/View/9374/Att-3-CUP-21-8012-COA\\_final](https://banningca.gov/DocumentCenter/View/9374/Att-3-CUP-21-8012-COA_final)
4. Site Plans  
[https://banningca.gov/DocumentCenter/View/9369/Att-4-Plans\\_313-Gallaher-CUP-21-8012\\_Rev-Set](https://banningca.gov/DocumentCenter/View/9369/Att-4-Plans_313-Gallaher-CUP-21-8012_Rev-Set)
5. Public Hearing Notice  
[https://banningca.gov/DocumentCenter/View/9370/Att-5-Public-Hearing-Notice\\_CUP-21-8012-Unit-101](https://banningca.gov/DocumentCenter/View/9370/Att-5-Public-Hearing-Notice_CUP-21-8012-Unit-101)
6. Notice of Exemption  
[https://banningca.gov/DocumentCenter/View/9371/Att-6-CUP-21-8012-NOE\\_final](https://banningca.gov/DocumentCenter/View/9371/Att-6-CUP-21-8012-NOE_final)

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Resolution 2021-85 Recommending the City Council make a determination of exemption under CEQA Guidelines Section 15301 and approve Conditional Use Permit 21-8013, to allow for commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 102 (APN: 541-220-023) in the Industrial (I) Zoning District

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### **RECOMMENDATION:**

Staff recommends the City Council adopt 2021-85, making a determination that the Project is exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) and approve Conditional Use Permit 21-8013 to allow for commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 102 (APN: 541-220-023) in the Industrial (I) zoning district.

### **BACKGROUND:**

The applicant, Gallaher Nursery Group, LLC, is requesting approval of a Conditional Use Permit (CUP) to allow for the commercial cultivation of cannabis in an existing industrial building located at 313 South Galleher Way, Unit 102, Banning, CA 92220. For location, see Figure 1 below.

### **DESCRIPTION:**

The applicant is requesting approval to allow for the commercial cultivation of cannabis. The applicant proposes tenant improvements to the existing industrial building located at 313 South Galleher Way, Unit 102. This industrial building is approximately 11,125 square feet in floor area and is proposed to accommodate a lobby, office, storage room, security room, break room, grow rooms, dry and trim room, clone room and rest room.

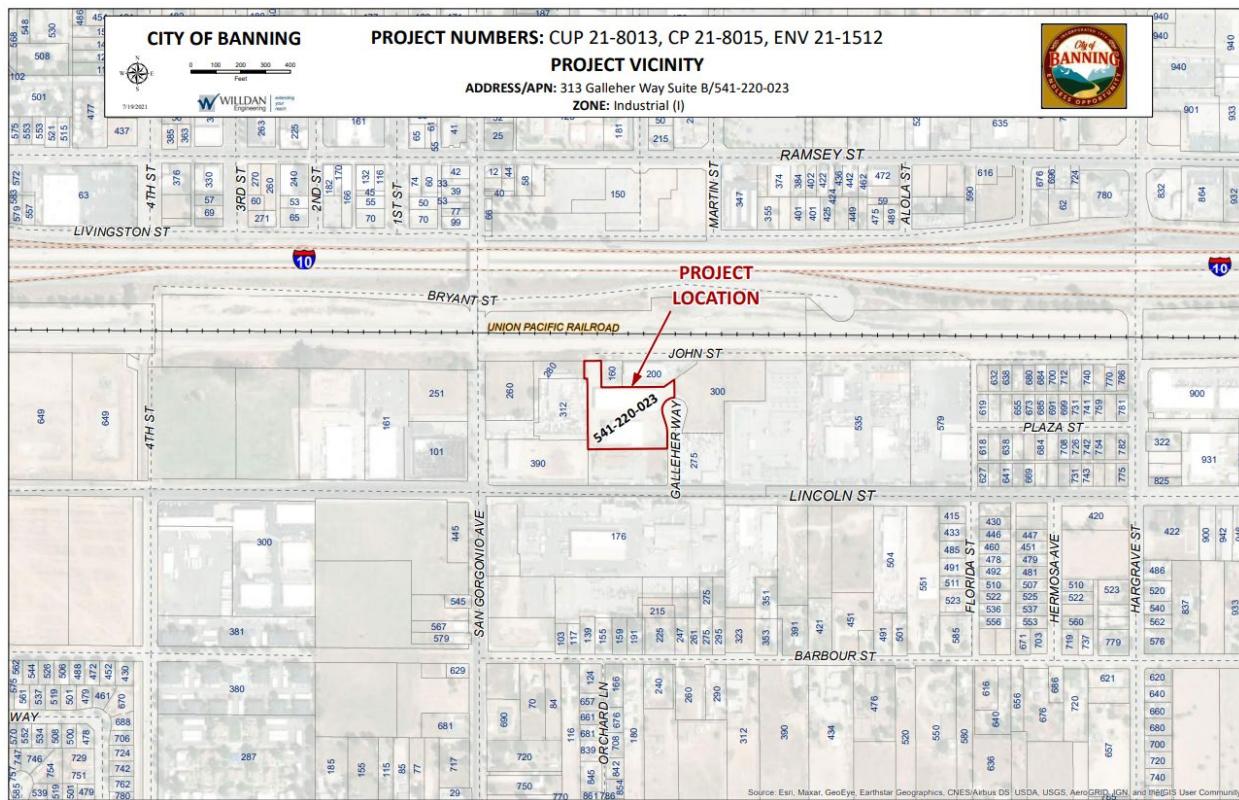
In accordance with Banning Municipal Code (BMC), the applicant proposes a security plan with cameras, guards, and surveillance equipment. There will be adequate security

September 28, 2021

Page 2 of 7

lighting and protocols to minimize potential security threats. Additionally, a two-stage air filtration system will be installed to prevent odors from leaving the premises.

## FIGURE 1



### Surrounding Land Use

The site consists of two large industrial buildings that are separated by an outdoor common area. Building 102 is the area proposed for this project which is approximately 11,125 square feet in size. The property is surrounded by vacant and developed industrial uses and structures. The nature of the surrounding uses, zoning classifications, and General Plan land use designations are delineated for Planning Commission consideration in Table 1 and Figure 2, detailed below:

## Land Use Summary Table

TABLE 1

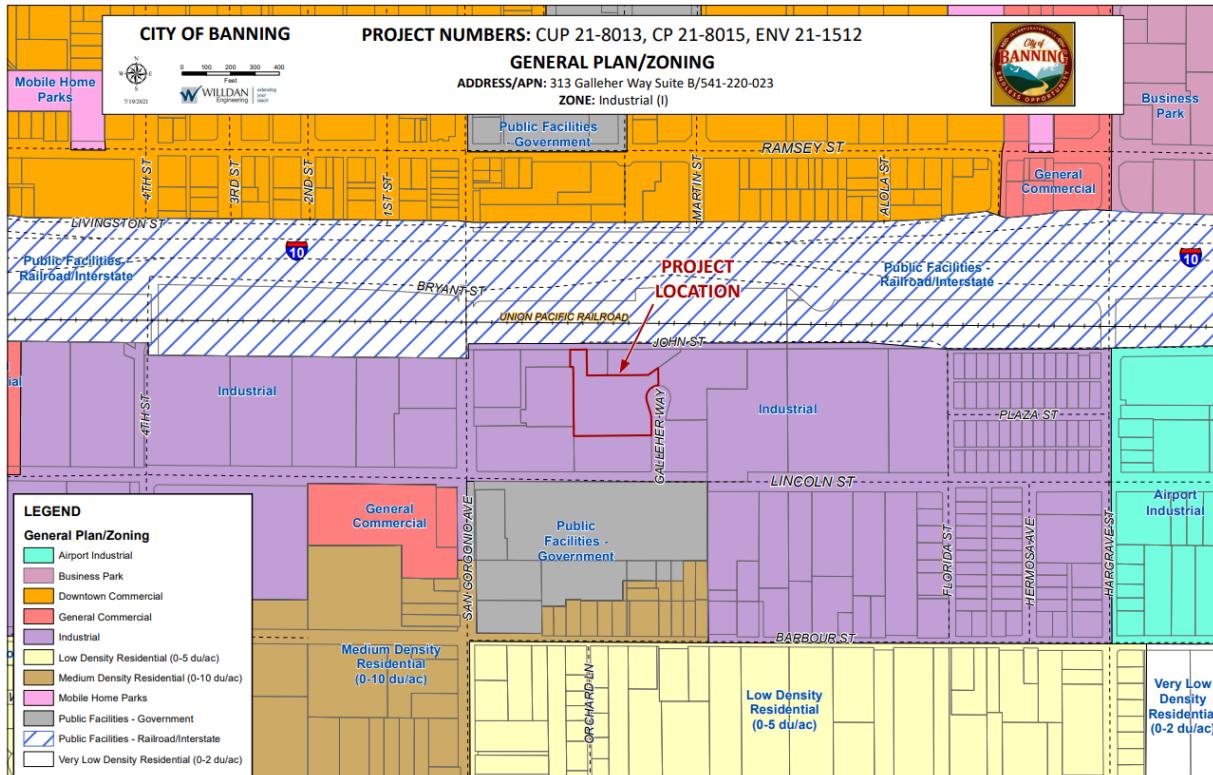
	Existing Land Use	Zoning Classification	General Plan Designation
<b>Subject Site</b>	Developed Industrial	(I)	(I)
<b>North</b>	Developed Industrial	(I)	(I)
<b>South</b>	Developed Industrial	(I)	(I)

September 28, 2021

Page 3 of 7

<b>East</b>	Developed Industrial	(I)	(I)
<b>West</b>	Developed Industrial	(I)	(I)

## FIGURE 2



## Project Analysis:

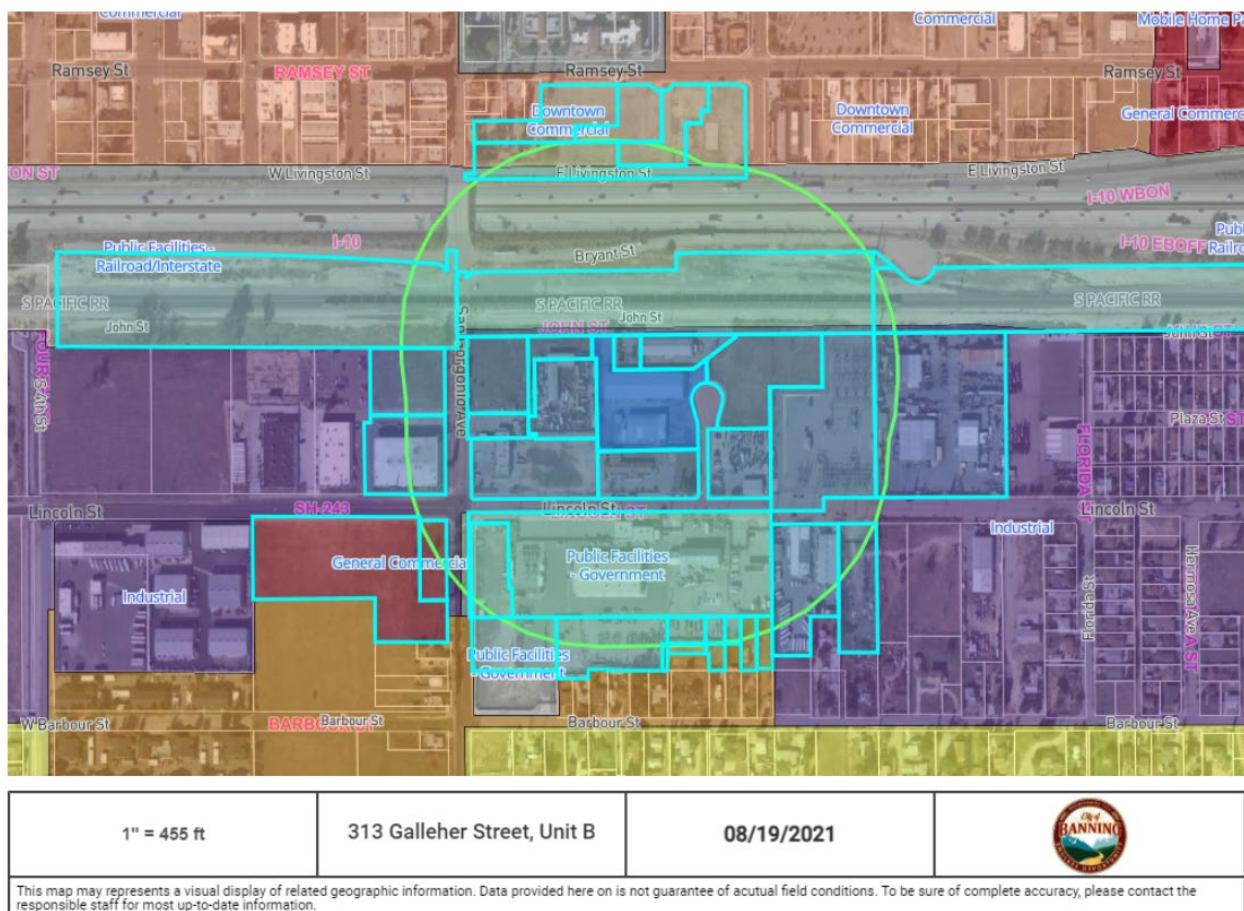
## Zoning

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 Commercial Indoor Cultivation is 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.

Additional requirements identified in the Code state the cannabis cultivator must be at least 600-feet from any day care center, youth center, public or private school providing instruction in kindergarten or any of grades K-12, or park. The proposed location of the Commercial Cannabis Cultivation facility is compliant with the above-mentioned requirements. For a radius map demonstrating the 600-foot buffer, see Figure 3 below.

FIGURE 3

CUP 21-8013, 600-Foot Radius Map



### 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 Planning Commission might want to impose, could include restrictions on the hours of business operation; restrictions on the number of clients or patients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted by the business or other use; as well as any other conditions which could help

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

**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 (see exception concerning Cannabis CUPs in Section 17.53.060 A. 1. below). 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 Title 17 of the Banning Municipal Code.
- C. The proposed use would not impair the integrity and character of the land use district in which it is to be located.
- D. The subject site is physically suitable for the type and intensity of land use being proposed.
- E. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.
- F. There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics.
- G. The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the city.

*Findings have been made and can be found in Planning Commission Resolution 2021-12 (attachment 1).*

BMC Section 17.53.060, Procedures, and Findings for Approval of Cannabis Conditional Use Permit, 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.

C. Staff believes that approval of the CUP will serve the community by providing a location for the cultivation of cannabis, providing for jobs and tax revenue, and assisting local cannabis retailers with product procurement.

*Environmental Determination:*

California Environmental Quality Act (CEQA)

Planning Division staff has determined that this Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15301 (Existing Facilities - Class 1 Categorical Exemption) because the project consists of the operation, repair, maintenance, permitting, leasing, licensing, and minor alteration of an existing private structure involving negligible or no expansion of an existing use, including interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.

Multiple Species Habitat Conservation Plan (MSHCP).

The project is not subject to MSHCP as the project is an existing facility with no expansion of the current structural footprint.

*Public Communication:*

Proposed Conditional Use Permit 21-8013 was advertised in the Record Gazette newspaper on August 20, 2021 (Attachment 3). As of the date of this report, staff has not received any written comments on the project.

**FISCAL IMPACT:**

The fiscal impact of the Project is positive. If approved, the applicant anticipates generating approximately \$55,625 in cannabis cultivation tax revenue for the first operating year and approximately \$111,250 per year for each remaining operation year.

<u>Year</u>	<u>Estimated Amount</u>
2021/2022	\$55,625
2022/2023	\$111,250

2023/2024	\$111,250
2024/2025	\$111,250
2025/2026	\$111,250

**ALTERNATIVES:**

1. The Council can deny the Project.
2. The Council can refer the Project back to the Planning Commission; or
3. The Council can direct staff, and the applicant, to return with a revised Project.

**ATTACHMENTS:**

1. City Council Resolution 2021-85  
<https://banningca.gov/DocumentCenter/View/9378/Att-1-Resolution-2021-85-CUP-21-8013>
2. Planning Commission Resolution 2021-12  
[https://banningca.gov/DocumentCenter/View/9375/Att-2-Resolution-2021-12\\_912021](https://banningca.gov/DocumentCenter/View/9375/Att-2-Resolution-2021-12_912021)
3. Conditions of Approval  
[https://banningca.gov/DocumentCenter/View/9379/Att-3-CUP-21-8013-COA\\_final](https://banningca.gov/DocumentCenter/View/9379/Att-3-CUP-21-8013-COA_final)
4. Site Plans  
[https://banningca.gov/DocumentCenter/View/9376/Att-4-Plans\\_313-Gallaher-CUP-21-8013\\_Rev-Set](https://banningca.gov/DocumentCenter/View/9376/Att-4-Plans_313-Gallaher-CUP-21-8013_Rev-Set)
5. Public Hearing Notice  
[https://banningca.gov/DocumentCenter/View/9377/Att-5-Public-Hearing-Notice\\_CUP-21-8013\\_Unit-101](https://banningca.gov/DocumentCenter/View/9377/Att-5-Public-Hearing-Notice_CUP-21-8013_Unit-101)
6. Notice of Exemption  
[https://banningca.gov/DocumentCenter/View/9380/Att-6-CUP-21-8013-NOE\\_final](https://banningca.gov/DocumentCenter/View/9380/Att-6-CUP-21-8013-NOE_final)

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** First Reading of Ordinance 1575 Amending Titles 5 and 15 of the Banning Municipal Code revising regulations pertaining to the permitting, operation, and maintenance of alarm systems within the City of Banning and providing for fees and penalties for false alarms and violations

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### **RECOMMENDATION:**

Staff recommend City Council (1) read the ordinance by title only, (2) waive further reading of the ordinance, and (3) introduce Ordinance 1575. If approved, the matter will come before Council for a second reading at their next regular meeting on October 12, 2021.

### **BACKGROUND:**

In the past year, the Banning Police Department responded to 1,500 alarm calls, with the vast majority being false alarm situations. Each alarm call requires two officers to ensure officer safety, as there is nothing more dangerous than responding to a call with little information other than something has triggered the alarm. These calls require the officers to anticipate the worst-case scenario and respond accordingly.

### **JUSTIFICATION:**

The intent of this ordinance is to reduce false alarms in the City, thereby reducing the amount of time police officers spend responding to these incidents. By enforcing false alarm violations more officers will be available to respond to active emergencies. The Police Department hopes to reduce false alarms through education first, using enforcement as a last resort for those owners who do not properly maintain their alarm systems.

The proposed updated alarm permit ordinance will require all monitored alarms be registered with the City. This provides the City with a good contact in case of an actual break-in at your property. If a false alarm occurs, officers will begin by issuing a warning. Following the third false alarm police response, the City may impose a penalty to the permit

holder. This encourages owners to maintain and properly care for their alarm systems to prevent more false alarms.

### **FISCAL IMPACT:**

When an alarm system experiences more than two false alarm responses in one year, that permit holder will be issued a citation for every subsequent false alarm. The **current fees** provided in the City's master user fee schedule are shown here:

<b>Number of False Alarms</b>	<b>Current Fee</b>
<b>1st Response</b>	None
<b>2nd Response</b>	None
<b>3rd Response</b>	\$72.00
<b>4th Response</b>	\$144.00
<b>5th + Response</b>	\$144.00

On the next page is a comparison for other agencies in the area and what they charge and how many “free” responses they allow. Four of the cities reviewed offer one false alarm exemption while the remaining cities reviewed allowed two responses.

Riverside PD required a one-time cost for permitting while the remaining cities required some type of annual renewal. San Jacinto required a one-time fee for residential alarms but no renewal charge while business alarms required an annual fee.

The cost to send officers to each alarm call depends on the business/residence. A two-officer response is a standard response to an alarm call, but a larger business or government building will require more officers due to the size of the building. An additional charge for the time it takes the communication center to take the call and dispatch it to officers and conclude the call with a disposition should be considered. Again, the cost of the communication side is dependent on how long the officers are on-scene and the magnitude of the scenario. The call could take between a couple minutes to a couple hours dependent on the specifics of the alarm call. Most of the cities reviewed would require a fee on any “non-permitted” false alarms. In other words, if the homeowner/business failed to purchase a permit they would not get the “free” false alarm allowance.

There is software available that will handle the permitting over a web-based program as well as having it connected to our RMS (Records Management System) for reporting purposes. This software is anywhere between \$3000.00 to \$6000.00 per year to maintain the records. The cost would be more to have the company manage the program.

Recommendation-Permit Fee \$20.00 Annual Cost, 2 Free False Alarms, \$72.00 for the third false alarm and \$144.00 for the fourth and any subsequent alarms. Non-permitted alarm fees start at \$72.00 for the first and \$144.00 for the second and any subsequent violations.

Staff Report: Ordinance 1575, False Alarm – First Reading

September 28, 2021

Page 3 of 3

Location	Permit Fee	Free False Alarms	Alarm Fee	Non-Permitted Alarm Fees
Beaumont	\$21.00 Annually	1 Free 12/month	2-100, 3-500, 4-1000	1-100, 2-500, 3+1000
Cathedral City	Initial 35, Renewal 30	1 Free 12/month	2-100, 3-150, 4-200	1-100, 2+ 200 per
Indio	30 initial (65+free)Renewal 20	1 Free 12/month	2-93, 3+93	1+93 per
Riverside	1 time fee 16	2 Free	3-100, 4-150, 5-200, 6+-250	Same
San Jacinto	25 initial for both, no renewal for residential, 20 business permit annual, 60+ free	2 free/365	3-50, 4-75, 5-100, 6+250	1-warning, 2-350, 3-400, 5+500 per
Palm Springs	33 initial, 29 annual after 1st year	1 free/365	2-150, 3-200, 4+250 per	1-free, 2-150, 3-200, 4+250
San Bernadino	30 Annual, 15 low income	2 free/12 months	3-100, 4-200, 5+300	1-200, 2-250, 3-350, 4+ 400
Banning* (PROPOSED)	\$20.00 annual permit cost	2 free/365	3-72, 4+144	1-72, 2+144

**ALTERNATIVES:**

1. Approve the first reading of Ordinance 1575.
2. Reject the Ordinance and provide alternate direction.

**ATTACHMENTS:**

1. Ordinance 1575  
<https://banningca.gov/DocumentCenter/View/9416/Att-1-Ordinance-1575-False-Alarms-Titles-5-and-15-of-BMC>
2. Public Notice  
[https://banningca.gov/DocumentCenter/View/9415/Att-2-Public-Notice\\_Record-Gazette](https://banningca.gov/DocumentCenter/View/9415/Att-2-Public-Notice_Record-Gazette)

Approved by:

  
 Douglas Schulze  
 City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** James Wurtz, Economic Development Manager

**MEETING DATE:** September 28, 2021

**SUBJECT:** Approval of a Professional Service Agreement with Kosmont Companies for Formation of a Community Revitalization Investment Authority in the City of Banning

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### **RECOMMENDATION:**

Staff recommends approving the Professional Services Agreement with Kosmont Company of Manhattan Beach, California for formation of a Community Revitalization Investment Authority (CRIA) plan.

### **BACKGROUND:**

In 2015, Assembly Bill 2 established Community Revitalization Investment Authorities (CRIAs), another type of tax increment financing district, that increases funding for and production of affordable housing in disadvantaged communities as well as other types of infrastructure projects. To qualify, a city/county must meet the criteria for disadvantaged communities, (3 of 4).

- Unemployment that is at least 3% higher in the area than the statewide median unemployment;
- The crime rate 5% higher than the statewide median crime rate;
- The area has deteriorated or inadequate infrastructure.

### CRIA Characteristics:

- CRIAs have an affordable housing set aside of 25% and
- Entail the powers of eminent domain for the first 12 years.
- CRIAs do not require public vote for creation or issuance of bonds, however they are subject to majority protest at adoption.
- CRIAs are governed by a 5-member board made up of at least 3 members of a legislative body and 2 community members who live or work in the district area.
- 80% of the area must meet income and other requirements (e.g. crime, unemployment, deteriorated infrastructure and private structures).

- Subject to ongoing reporting and audit requirements in the form of an annual report & independent financial audit.

### **JUSTIFICATION:**

Kosmont Companies was selected based on a number of factors including a strong knowledge of our community, understanding of factors affecting local, state and national issues with respect to COVID-19 & complimentary services available to municipal governments. Kosmont is a certified Minority Business Enterprise (MBE) and is a full-service local government, economic and real estate advisory firm with a 34+ year track record of working with cities and public agencies on economic development, downtown retail market analyses, and evaluating real estate projects as well as the negotiation and execution of real estate and public finance transactions.

Kosmont is also working on CRIA and Enhanced Infrastructure Financing District (EIFD) and related analyses in the Cities of Riverside, Indian Wells, Ontario, Rancho Cucamonga, Los Angeles, Fresno, and many other communities. These projects are in various stages of evaluation and formation. Kosmont is additionally retained by the Southern California Association of Governments (SCAG) for subject matter expertise and technical advisory related to CRIA and EIFD screening, serving its 191 member cities and six member counties.

As it relates to Banning, Kosmont understands that the City is seeking to evaluate the feasibility of forming a CRIA for targeted opportunity site areas in the City, including but not limited to areas surrounding Ramsey Street and the eastern end of the City. The proposed Scope of Services outlined herein represents an initial phase of work focused on initial feasibility evaluation. Future phases of work through potential district formation would require future authorization by the City, time and budget for which would be outlined for City consideration in advance.

### **FISCAL IMPACT:**

The Economic Development Department under the control of the office of the City Manager is proposing a budget adjustment in the amount of \$27,500.00 to complete this project.

### **ALTERNATIVES:**

1. Approve as recommended to accept a Professional Services Agreement between the City of Banning and The Kosmont Company Inc. of Manhattan Beach CA.
2. Do not approve as recommended and provide alternative direction to staff.

### **ATTACHMENTS:**

1. Kosmont Companies Proposal for Special District Advisory Services  
<https://banningca.gov/DocumentCenter/View/9421/Att-1-Kosmont-Proposal-to-Banning-CRIA-9-2-21>

September 28, 2021

Page 3 of 3

2. CEDS Draft Study and CRIA Presentation

<https://banningca.gov/DocumentCenter/View/9419/Att-2-Banning---CEDS-CRIA-Council-PPT-9-28-21>

3. Resolution 2020-25 Accepting Grant Funding for CEDS Study

<https://banningca.gov/DocumentCenter/View/9420/Att-3-Resolution-No-2020-25>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Approval of an Agreement Between the Banning Police Department and the Banning Unified School District for Three (3) School Resource Officers (SROs)

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### **RECOMMENDATION:**

The City Council Authorizes the City Manager or his designee to enter into a professional services agreement to provide the Banning Unified School District with three (3) School Resource Officers for the 2021-22 School Year.

### **BACKGROUND:**

This is in effect a renewal of a long-standing contract with the School District. The Banning Unified School District and the City of Banning mutually agree that a police officer on campus at the local schools is a valuable resource. The City of Banning Police Department provides the police officers. In return, the School District reimburses the City a portion of the officer's total compensation (70%).

### **JUSTIFICATION:**

A study by the U.S. Department of Justice, Community Oriented Policing Services (COPS) publication *“Assigning Police Officers to Schools”* the author stated “the benefits that school administrators seek from having police officers working in their schools include:

- Increased safety in and around schools
- Increased perceptions of safety
- Improved police call response times
- Reductions in truancy
- Fewer distractions from their teachers' teaching class and preparation duties”

Many of the items mentioned in the study are echoed for the Banning Unified School District. Improving and keeping the children of the community safe is the primary reason to embark on this endeavor.

**FISCAL IMPACT:**

The Banning Unified School District has committed to paying 70% of the full cost of a police officer for each of the three (3) positions.

	<b>Cost of One (1) School Resource Officer Proposed per Officer</b>	<b>Extended Cost for Three (3) Officers Proposed Total Cost</b>
<b>Annual Cost to Employ a Police Officer, Fully Burdened</b>	\$206,778	\$620,334
<b>School District Cost Share</b>	\$144,744	\$434,234
<b>City Cost Share</b>	\$62,034	\$186,102

The current staffing of the Banning Police Department will not provide for reassigning three (3) officers from another section and dedicating them to the School District. This would necessitate the hiring of additional staff to backfill the department to assign current officers as School Resource Officers.

**ALTERNATIVES:**

1. Approve the contract with the School District.
2. Do not approve the contract and provide direction.

**ATTACHMENT:**

1. Proposed Banning Unified School District-Banning Police Department Contract  
<https://banningca.gov/DocumentCenter/View/9417/Proposed-FY-2021-22-SRO-Contract-with-Banning-PD-second-revision-9-16-21>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 28, 2021

**SUBJECT:** Resolution 2021-95 adopting SB 743 Vehicle Miles Traveled (VMT) Thresholds for California Environmental Quality Act (CEQA) Compliance Related to Transportation Analysis

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### **RECOMMENDATION:**

Adopt Resolution 2021-95, a Resolution of the City Council of the City of Banning Adopting Vehicle Miles Traveled Thresholds of Significance for Purposes of Analyzing Transportation Impact Under the California Environmental Quality Act.

### **BACKGROUND:**

Senate Bill (SB) 743, signed in 2013, changes how transportation impact analyses are conducted in California Environmental Quality Act (CEQA) documents. SB 743 replaces motor vehicle delay as measured by Level of Service (LOS), with Vehicle Miles Traveled (VMT) as the CEQA transportation impact determination metric. As a result of the SB 743 final rulemaking, the City of Banning is adopting a set of VMT thresholds and technical analysis guidelines to support the shift from a delay-based CEQA transportation impact analysis to one based on VMT. The change in transportation impact focus will better align transportation impact analysis and mitigation outcomes with the State's goals to reduce greenhouse gas (GHG) emissions, encourage infill development, and improve public health through more active transportation.

In January 2019, the Natural Resources Agency and the Governor's Office of Planning and Research (OPR) codified SB 743 into the Public Resources Code (PRC) and the State CEQA Guidelines. The City of Banning retained LSA and Associates to assist the City in establishing a VMT analysis methodology, setting VMT thresholds for CEQA transportation impacts, and identifying possible solutions mitigation strategies. The City of Banning *VMT Analysis Implementation Guidelines* (copy attached) is the result of this effort.

## **JUSTIFICATION:**

Since SB 743 represents a significant departure from current practice, the following questions were addressed as part of the City's *VMT Analysis Implementation Guidelines*:

1. **Methodology** – what methodology should the City use to forecast projected-generated VMT and the project's effect on VMT under baseline and cumulative conditions, and how makes the selection of a threshold influence the methodology decision?;
2. **Thresholds** – what threshold options are available to the City and what substantial evidence exists to support selecting a specific VMT threshold?; and
3. **Mitigation** – what would constitute feasible mitigation measures for a VMT impact given the City's land use and transportation context?

### **Methodology:**

As the Lead Agency under CEQA, A City has the discretion to choose the most appropriate methodology to evaluate a project's VMT, including whether to express the change in absolute terms, per capita, per household, or in any other measure. The City may use models to estimate a project's VMT and revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate VMT and any revisions to model outputs should be documented and explained in the environmental document prepared for the project.

The recommended methodology for conducting VMT assessments for land use plans included in the City of Banning *VMT Analysis Implementation Guidelines* compares the existing VMT per service population for the region with the expected horizon year VMT per service population for the land use plan (project). The recommended target is to achieve a lower VMT per service population in the horizon year with the proposed land plan compared to the existing condition. For land-use plans with only one land use, VMT per capita or VMT per employee may be used as the metric as appropriate.

The City recommends using the Riverside County Transportation Analysis Model (RIVCOM) for VMT analysis purposes.

Once a development application is filed, project screening is conducted as the initial step. If the project meets any one of the screening criteria, the project may be presumed to have a less than significant transportation impact. No further VMT analysis would then be necessary. The CEQA document should enumerate the screening criteria and how the project meets or exceeds that applicable VMT threshold. If project screening does not apply, a VMT analysis may be required. The extent of this analysis may be a simple algebraic demonstration or a more sophisticated traffic modeling exercise.

### **Thresholds of Significance:**

State CEQA Guidelines §15064.7(b) allows the City to adopt significance thresholds provided the threshold is adopted by ordinance, resolution, rule, or regulation, developed through a public review process, and supported by substantial evidence. The proposed *City of Banning VMT Analysis Implementation Guidelines* prepared in conjunction with LSA Associates and based in part on the Governor's Office of Planning and Research, Technical Advisory, *On Evaluating Transportation Impacts in CEQA, December 2018*, meets the substantial evidence requirement mandated by CEQA.

A summary of the VMT Thresholds are provided below.

#### Project Screening

The City's Guidelines acknowledge that conditions may exist, resulting in the presumption that a development project is likely to produce a less than significant VMT impact. These factors may include a project's size, location, proximity to transit, and trip-making potential. For example, development projects that have one or more of the following attributes may be presumed to produce a less than significant VMT impact:

- The project is located within a half-mile of a designated Transit Priority Area (TPA) or a High-Quality Transit Area (HFTA). Projects proposed in these areas may be presumed to have a less than significant transportation impact if the project is consistent with the City's General Plan and zoning, has an FAR greater than 0.75, provides parking less than or equal to what is required in the City's Municipal Code, and does not replace affordable residential units with moderate- or high-income residential units.
- The project involves local-serving neighborhood retail space of less than 50,000 square feet (sf).
- Redevelopment projects that result in an equal or net reduction in VMT can be considered to have less than significant VMT impact. A net reduction in VMT would occur if the land use proposed by the project generated less VMT than the existing land use.
- The project has 100 percent affordable housing units.
- A project consistent with the City's General Plan can be successfully screened if the project would generate fewer than 1,000 average daily trips (ADT). In contrast, a project not consistent with the City's General Plan can be screened if the project would generate fewer than 500 ADT.

If a project does not meet the screening requirements, a full VMT Analysis must be prepared.

### Significance Threshold for Land Use Projects

The project-generated VMT (per capita, per employee, per service population, or total) is compared to the appropriate significance threshold provided in Table C below. If the project VMT metric is less than the significance threshold, the project is presumed to create a less than significant impact. No further VMT analysis would then be required. If the project VMT metric is greater than the significance threshold, mitigation measures will be necessary.

**Table C: Significance Thresholds for VMT Analysis in the City of Banning**

VMT Metric	Threshold
VMT per Capita	19.7
VMT per Employee	22.4
VMT per Service Population	27.9

Source: City of Banning VMT Implementation Guidelines

### Significance Thresholds for Land Use Plans

Compare the existing VMT per service population for the region with the expected horizon year VMT per service population for the land use plan (project). The recommended target is to achieve a lower VMT per service population in the horizon year with the proposed land plan compared to the existing condition. For land-use plans with only one land use, VMT per capita or VMT per employee may be used as the metric as appropriate

### Significance Thresholds for Transportation Projects

The assessment of a transportation project's VMT impact should disclose the VMT profile without the project and the difference in the VMT profile with the project. Any increase in VMT attributable to the proposed transportation project would result in a significant impact. A significant transportation project impact is presumed when VMT increases with the project compared to the 'No Project' scenario.

### **Mitigation:**

The Project Proponent is required, per CEQA, to identify feasible offsets to mitigate VMT impacts generated by the project. These can come from the mitigation strategies provided by the City (as described in Appendices A and B of the City of Banning VMT Analysis Implementation Guidelines) or selected by the applicant based on their CEQA project experience and expertise. The City must approve and accept the final VMT mitigation program ascribed to the project and the related VMT percentage reduction. A detailed discussion about project-specific mitigations is included in Section 7.2.1 of the VMT Analysis Implementation Guidelines.

If it is determined that the selected VMT mitigation measures effectively reduce the project impact to less than the applicable threshold, the project is presumed to have an impact mitigated to a less than significant level. No further VMT analysis is required. If the project's VMT impact cannot be mitigated, the City may:

- 1) Request the project be redesigned, relocated, or realigned to reduce the VMT impact, or;

- 2) Require the preparation of an EIR with a Statement of Overriding Considerations (SOC) for the transportation impacts associated with the project. Even if an EIR/SOC is prepared, all feasible mitigation measures must be assigned to and carried out by the project.

**FISCAL IMPACT:**

None

**ALTERNATIVES:**

None

**ATTACHMENTS:**

1. Resolution 2021-95  
[https://banningca.gov/DocumentCenter/View/9482/Attach-1 -Resolution-2021-95\\_BANNING-VMT-RESOLUTION-](https://banningca.gov/DocumentCenter/View/9482/Attach-1 -Resolution-2021-95_BANNING-VMT-RESOLUTION-)
2. City of Banning VMT Analysis Implementation Guidelines  
[https://banningca.gov/DocumentCenter/View/9483/Attach-2\\_City-of-Banning\\_VMT-Thresholds-and-Guidelines\\_DRAFT-09-10-2021](https://banningca.gov/DocumentCenter/View/9483/Attach-2_City-of-Banning_VMT-Thresholds-and-Guidelines_DRAFT-09-10-2021)
3. SB743 Bill Text  
[https://banningca.gov/DocumentCenter/View/9481/Attach-3\\_SB-743-Bill-Text](https://banningca.gov/DocumentCenter/View/9481/Attach-3_SB-743-Bill-Text)

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Cherie Johnson, Human Resources Manager

**MEETING DATE:** September 28, 2021

**SUBJECT:** Approve Contract Award for Total Classification and Compensation Study to Public Sector Personnel Services

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### **RECOMMENDATION:**

That City Council approve the contract award for a Total Classification and Compensation Plan in the amount of \$90,000, to include an analysis of health and fringe benefits.

### **BACKGROUND:**

On June 22, 2021, City Council approved \$175,000 for a Total Classification & Compensation Plan (C&C Plan). Four proposals were received and an evaluation committee of ten persons, including union representation, scored each proposal. The committee has selected Public Sector Personnel Services (PSPC).

Past City Resolutions have identified the necessity to maintain a current C&C Plan which reflects the nature of work and organizational structure, that the plan is updated to reflect both market changes and appropriate compensation for work performed. City of Banning's bargaining units have been supportive of updated C&C Plans to obtain objective salary information and job comparisons.

The City of Banning Employee Handbook speaks to the necessity of utilizing current compensation data to update the salary schedules.

Section 5, Salary Plan & Administration (pg 26):

#### A. SALARY SCHEDULE EXPLANATION

(2) The personnel director shall have the responsibility for recommending changes in the salary schedule to keep the same currently in a condition to meet the needs of the City and its departments. From time to time he may, and upon order of the City Council shall, initiate salary schedule studies of the various positions and position specifications, and

related matters, and make appropriate recommendations to the City Council for amendments of the salary schedule, this Resolution, orders and regulations made pursuant thereto.

The City's last salary survey was conducted in 2016 by the same consultant firm chosen by the committee. That 2016 survey was limited in scope, in not up-to-date, and did not include all departments.

### **JUSTIFICATION:**

Most public agencies utilize a specialized consulting firm to conduct a formal and impartial Classification & Compensation Plan (C&C Plan). A C&C Plan compares the City's compensation and job classifications against 8-12 similarly-sized agencies every 5-10 years. The survey is typically conducted by a subject matter expert who captures current market data. Salary surveys are vital to maintaining an equitable and competitive compensation system. Accurate job classifications and job families are necessary to ensuring legal compliance and help promote a better work culture. Accurate market rate compensation is necessary to retain the City's talent and to recruit new talent. We believe the health and fringe benefit data is valuable for negotiation purposes.

Public Sector Personnel Services' (PSPC) project total is \$90,000, which is \$85,000 less than the approved budget. The base proposal is \$82,500 and would not be a total review of all compensable factors. The estimated timeframe of the work plan is 150 days, with a potential for 90-120 additional days to review job class specifications. The use of a professional consultant is to ensure a non-biased and objective review. HR does not have the current capacity to conduct a similar survey.

### **Project Objectives**

The recommended plans, programs, systems, and administrative procedures will meet these ten most important criteria.

1. Internally equitable
2. Financially responsible
3. Externally competitive
4. Efficiently administered
5. Readily understood
6. Inclusive of employee input
7. Easily updated & maintained
8. Reflective of City's values
9. Legally compliant & defensible
10. Reflective of prevailing best practices

Identified in detail on the proposal, the survey will consist of:

1. Project planning with HR staff and communication with employees
2. A formal and objective job analyses
3. Review and recommendations of job families and career ladders
4. Review and update of job class specifications

5. Survey of comparable cities/agencies to include salary and benefits
6. Review of competitiveness analysis
7. Compensation plan development
8. Communication of results and implementation strategies

**FISCAL IMPACT:**

The total cost of the full proposal is \$90,000. The base proposal option is \$82,500. The cost of implementation of any compensation recommendations are unknown until the survey is complete.

**ALTERNATIVES:**

1. Approve the full proposal at \$90,000.
2. Approve the base proposal plus Alternate #1 (Health Benefits) at \$85,000.
3. Approve the base proposal plus Alternate #2 (Fringe Benefits) at \$87,500.
4. Approve only the base proposal at \$82,500.

The City Council may also choose to not award the RFP.

**ATTACHMENTS:**

1. RFP Evaluation  
<https://banningca.gov/DocumentCenter/View/9448/Evaluation-Tabulation>
2. Notice of Intent to Award  
<https://banningca.gov/DocumentCenter/View/9447/Notice-of-Intent-to-Award-15>
3. Proposal – Public Sector Personnel Consultants  
[https://banningca.gov/DocumentCenter/View/9450/Awarded-Proposal-2021\\_0928--Public-Sector-Personnel-Consultants](https://banningca.gov/DocumentCenter/View/9450/Awarded-Proposal-2021_0928--Public-Sector-Personnel-Consultants)
4. RFP posted to City's website  
<https://banningca.gov/DocumentCenter/View/9449/RFP-Total-Class--Comp-2021>

Approved by:



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Douglas Schulze  
City Manager