



AGENDA

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

December 14, 2021

5:00 p.m.

In Chamber and via Video/Teleconference

Council Chambers
99 E. Ramsey Street
Banning, CA 92220

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). Esta reunión se lleva a cabo en la Cámara y a través de Video/Teleconferencia en Zoom para que los miembros del público puedan observar y participar en esta reunión de manera electrónica. Si elige participar en esta reunión a través de Zoom, acepta cumplir con los Estándares comunitarios de Zoom para reuniones públicas de la ciudad (que se proporcionan en su totalidad en la última página de la 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
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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 Wallace

2. AGENDA APPROVAL

2.1. Approve Agenda

3. REORGANIZATION OF CITY COUNCIL

3.1. City Council Reorganization.....**9**

4. PRESENTATION(S)

None

5. REPORT ON CLOSED SESSION

5.1. City Attorney

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.

Se aplicará una limitación de tres (3) minutos a cada miembro del público que desee dirigirse al Alcalde y al Concejo sobre un asunto que no esté en la agenda. A ningún miembro del público se le permitirá compartir su tiempo con ningún otro miembro del público. Por lo general, cualquier artículo recibido bajo este encabezado se envía al personal para su estudio, investigación, finalización y / o acción futura del Consejo en el futuro (consulte el artículo 10). POR FAVOR INDIQUE SU NOMBRE PARA EL REGISTRO.

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

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 to 7.23.

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

7.1.	Approval of Minutes of the November 9, 2021 City Council Meetings.....	11
7.2.	Adopt City Council Resolution No. 2021-121, A Resolution of the City Council of the City of Banning, California, Authorizing Public Meetings of All City Legislative Bodies to be Held with a Teleconference Option for Members of those Bodies and the Public Pursuant to Government Code Section 54953(e), and Making Findings and Determinations Regarding the Same.....	12
7.3.	Resolution No. 2021-122 Acknowledging receipt of a report made by the Fire Chief of the Riverside County Fire Department regarding compliance with the annual inspection of certain occupancies pursuant to sections 13146.2 and 13146.3 of the California Health and Safety Code.....	15
7.4.	Receive and File Police Dept. Statistics for the Month of October 2021.....	17
7.5.	Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of October 2021.....	18
7.6.	Receive and File Cash, Investments and Reserve Report for the Month of October 2021.....	20
7.7.	Adopt Resolution 2021-116, Approving the Ratified Tentative Agreement with the International Brotherhood of Electrical Workers – Local 47, Representing General Unit Bargaining Unit, and Authorizing the City Manager to Finalize and Execute a Successor Memorandum of Understanding.....	22
7.8.	Adopt Resolution 2021-118, Approving the Ratified Tentative Agreement with the International Brotherhood of Electrical Workers – Local 47, Representing Utility Unit Bargaining Unit, and Authorizing the City Manager to Finalize and Execute a Successor Memorandum of Understanding.....	25
7.9.	Authorize the City Manager to Sign the Notice of Completion for Project No. 2018-01W, “Water Improvement Plan – Location 2” as Complete and Direct the City Clerk to Record the Notice of Completion.....	28
7.10.	Adopt Resolution 2021-115, Approving the Banning Municipal Airport Capital Improvement Plan for 2022-2026.....	30
7.11.	Acceptance of Fiscal Year 2020 State Homeland Security Program (SHSP) Grant Award of \$34,741 and Approve Movement of Approved Funding In The Amount of \$26,309 for Fiber Optic Upgrade Project.....	32
7.12.	Accept the Easement from Tri Pointe Homes for Public Water Utility Maintenance Purposes for Tract Map No. 37390-2 within the Atwell Development.....	34
7.13.	Approval of Amendment to the Western Riverside Council of Governments' Joint Powers Agreement.....	36
7.14.	Resolution 2021-119, Approving a Purchase Order with WEG Transformers USA for a Not-To-Exceed Amount of \$2.2 Million for Two (2) Replacement Power Transformers at Midway Substation.....	38

7.15. Adopt Resolution 2021-120, adopting Caltrans Local Assistance Procedures Manual (LAPM) Chapter 10: Consultant Selection.....	40
7.16. Resolution 2021-114, Authorizing the Department of Water Resources Urban and Multibenefit Grant Application, Acceptance and Execution for the Critical Well Relocation (M-12A) for Drought Relief Project.....	42
7.17. Resolution 2021-117, Establishing a Pre-Approved Architect Services Vendor List for the Remainder of Fiscal Year 2021/2022 through Fiscal Year 2025/2026.....	45
7.18. Approve Resolution 2021-125, Authorizing the Director of Public Works to Vote on Behalf of the City of Banning During a Public Meeting to Adopt the San Gorgonio Pass Groundwater Sustainability Plan.....	47
7.19. Consider the Potential Uses of Opioid Settlement Funds, Authorize the City Manager to Participate in the National Opioid Settlement, Approve the Agreement with the County for the use of the City's Allocation of those funds, and authorize the City Manager to execute that County/City Agreement.....	50
7.20. Receive and File Contracts Approved Under the City Manager's Signature Authority, including CUPPCAA Projects, for the Month of September, October and November 2021.....	54
7.21. Review Fiscal Year 2021-22 First Quarter Budget Update and Financial Status Report.....	55
7.22. Resolution 2021-129, Rejecting All Bids for Project No. 2020-13 "Collection Site Improvements".....	64
7.23. Approving Resolution No 2021-126 for Amendment No. 1 to the Agreement (C00689) for Property Tax Management, Audit and Information Services by and Between City of Banning and HdL Coren & Cone.....	66

8. PUBLIC HEARING(S)

Agenda Item 8.1, a Public Hearing related to the Redistricting Process, will begin at 6:00 p.m. or shortly thereafter in accordance with Government Code §21507.1 (d).

8.1. Second Public Hearing to Receive Comments and Input on the Redistricting Process for the Potential Redrawing of Election District Boundaries.....	68
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Recommendation: Staff recommends that the City Council: 1) Open the public hearing and accept public comments and input regarding "communities of interest" districts for the purpose of possibly redrawing election district boundaries and close the public hearing; and 2) Provide additional direction to staff, as appropriate.

8.2. Resolution 2021-124, Small Commercial Multi-Phase Tariff Revision.....	74
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Recommendation: Staff recommends adopting Resolution 2021-124 revising the Small Commercial Multi-Phase Tariff to accurately reflect the intended rate change approved by City Council in Resolution 2021-102.

8.3. Ordinance 1580 Approving Zone Text Amendment 21-97503, amending Chapters 5.33, 17.12, and 17.54 of the Banning Municipal Code, Eliminating	
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the numeric cap on the number of cannabis retailers permitted in the City, allowing for the operation of cannabis retailers in the General Commercial Zone, allowing cannabis distribution and manufacturing in the Business Park Zone, making additional conforming amendments to regulations pertaining to cannabis retailers, and making a determination that the Zone Text Amendment is exempt from review under CEQA pursuant to CEQA Guidelines Section 15061 (b)(3)..... **76**
(Staff Report: Adam Rush, Community Development Director)

Recommendation: That the City Council take the following actions: (1) Make a determination, pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines that the project is exempt from CEQA, and (2) Introduce for first reading City Council Ordinance 1580, approving Zoning Text Amendment 21-97503, amending Chapters 5.33, 17.12, and 17.54 of the Banning Municipal Code, and making additional conforming amendments to regulations pertaining to cannabis retailers.

9. REPORT OF OFFICERS

9.1. Discussion and City Council Consideration Authorizing the City Manager to Enter into a New Exclusive Negotiation Agreement and a Preliminary Term Sheet with Grandave Capital, LLC for City-owned Property located at 200 S. Hathaway Street..... **80**
(Staff Report: James Wurtz, Economic Development Manager)

Recommendation: It is recommended that the City Council discuss and take one or both of the following actions: (1) Consider, and if appropriate, approve a new Exclusive Negotiation Agreement (ENA) with Grandave Capital, LLC for City-owned Property located at 200 S. Hathaway Street, known as Banning Municipal Airport. This action would act to extend the time that the City would be exclusively negotiating with Grandave from the current expiring term of December 31, 2021 included in the current and second ENA. The new ENA would take effect on January 1, 2022 and would terminate on June 30th 2022; and (2) Consider, and if appropriate, approve a Preliminary Term Sheet, as an Exhibit to the ENA, providing basic terms for the continued negotiation of various entitlements and agreements, while reserving City Council discretion in final documents, pending public hearings and satisfaction with CEQA.

9.2. Resolution 2021-127 approving the License Agreement with Kids Cures Foundation for use of City-Owned property located at 2041 W Nicolet Street in Banning, commonly known as the Armory Building..... **85**
(Staff Report: Ralph Wright, Parks and Recreation Director)

Recommendation: The City Council adopt Resolution 2021-127 approving and authorizing the City Manager to execute the license agreement with Kids Cures Foundation for use of designated warehouse space in the Armory building.

9.3. Resolution 2021-123, Authorizing the Use of One-Time Funding from the Settlement Agreement with Tri-Pointe Homes for the Purchase of Seven (7) Police Vehicles to Include Upfitting, In-Car Computers, Police Radio, Graphics, and Tinting in the Amount of \$505,190.00..... **87**
(Staff Report: Matthew Hamner, Chief of Police)

Recommendation: Staff recommend City Council approve Resolution 2021-123, authorizing the purchase of seven (7) police SUV's using the funding from the settlement agreement with Tri-pointe Homes, and authorize the City Manager or designee to modify the fiscal year 2021-22 budget to appropriate the funds to account number 001-2200-421-90-52 in the amount of \$505,190.

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. Golf Cart/EV Ordinance (On hold)
4. Airport Advisory Commission
5. ~~Retail Marijuana (Happe)~~ See Agenda Item 8.3.
6. Business-Friendly Zoning (Wallace)

12. ADJOURNMENT

Next Regular Meeting – January 11, 2021 at 5:00 p.m.

HAPPY HOLIDAYS
FROM THE
CITY OF BANNING

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.

Estándares comunitarios de Zoom para Reuniones Públicas

Al participar en esta reunión en Zoom, usted acepta cumplir con los Estándares Comunitarios para Reuniones Públicas de la ciudad de Banning. Los que atienden por Zoom que no cumplan con estos estándares pueden ser retirados de la sala de reuniones.

- Su micrófono debe permanecer en silencio, y solo puede reactivar su micrófono cuando / si es reconocido por el alcalde.
- Su cámara debe estar apagada a menos que sea reconocido por el alcalde.
- Para indicar el deseo de hacer un Comentario Público, debe utilizar la función Levantar la mano. El alcalde no reconocerá a quienes no hayan utilizado la función Levantar la mano.
- Los comentarios públicos de lo que atienden por Zoom seguirán inmediatamente los comentarios en persona de los miembros del público en las Cámaras del Consejo.
- Si no cumple con estas pautas de la comunidad, es posible que lo destituyan por interrumpir la reunión que tiene lugar en las Cámaras del Consejo. Puede volver a unirse a la reunión, pero es posible que lo eliminen por cada violación de estos estándares de la comunidad.
- La función de chat estará deshabilitada para todas las Reuniones del Ayuntamiento en Zoom.

AFFIDAVIT • DECLARACIÓN JURADA

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) 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 9th day of December 2021.



Caroline Patton, Deputy City Clerk
Secretario adjunto de la ciudad

PUBLIC NOTICE • NOTICIA PÚBLICA

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).

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.

¿Necesita servicios de traducción para participar? Contacto Oficina del Secretario de la Ciudad.

CONTACT • CONTACTO

Office of the City Clerk • 951-922-3102 • CityClerks@banningca.gov
99 East Ramsey Street, Banning, California 92220



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: December 14, 2021

SUBJECT: Annual City Council Reorganization

RECOMMENDATION:

Staff respectfully recommend City Council appoint one of its members as Mayor and a second as Mayor Pro Tem to serve for a period of one year.

BACKGROUND:

The annual process of Council reorganization is set by the Banning Municipal Code, Chapter 2.04.070, which dictates that City Council appoint one of its members as Mayor and a second as Mayor Pro Tem.

The term of service for both Mayor and Mayor Pro Tem shall be for a period of one year from date of appointment or until a successor is appointed. No person may become Mayor or Mayor Pro Tem unless a majority of Council members votes to approve the action. A Council member may be elected to a maximum of two consecutive one-year terms in the same position.

In accordance with statute, these appointments are made at the meeting the municipal elections results are declared and new elected officials sworn in and seated. In non-election years, reorganization occurs at the first meeting in December.

Finally, City code dictates that the Council member appointed to mayor shall serve as the chair of the City's Successor Agency and Housing Authority. The member appointed as mayor pro tem will serve as the vice chair to each of these bodies. The Mayor Pro Tem serves as mayor or chair only in instances where the mayor is absent, or the position vacated.

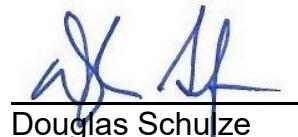
ALTERNATIVES:

There are no alternatives since the City's municipal code requires this annual process.

ATTACHMENTS:

1. Election of Mayor
<https://banningca.gov/DocumentCenter/View/9596/Att-1-Election-of-Mayor>
2. Election of Mayor Pro Tem
<https://banningca.gov/DocumentCenter/View/9594/Att-2-Election-of-Mayor-Pro-Tem>
3. Banning Municipal Code Chapter 2.04.070
<https://banningca.gov/DocumentCenter/View/9595/Att-3-BMC-204070-Appointment-of-mayor-and-mayor-pro-tem>

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: December 14, 2021

SUBJECT: Minutes of the November 9, 2021 City Council Meetings

RECOMMENDATION:

Approve the minutes of the November 9, 2021 City Council Meetings.

ALTERNATIVES:

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

ATTACHMENTS:

1. Minutes of the November 9, 2021 Special City Council Meeting
https://banningca.gov/DocumentCenter/View/9752/2021-11-09_Minutes_Special-Meeting
2. Minutes of the November 9, 2021 Regular City Council Meeting
https://banningca.gov/DocumentCenter/View/9751/2021-11-09_Minutes-Regular-Meeting

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Kevin Ennis, City Attorney

MEETING DATE: December 14, 2021

SUBJECT: Adopt City Council Resolution No. 2021-121, A Resolution of the City Council of the City of Banning, California, Authorizing Public Meetings of All City Legislative Bodies to be Held with a Teleconference Option for Members of those Bodies and the Public Pursuant to Government Code Section 54953(e), and Making Findings and Determinations Regarding the Same

RECOMMENDATION:

Staff recommends that the City Council adopt proposed City Council Resolution No. 2021-121, a Resolution of the City Council of the City of Banning, California, continuing to authorize the public meetings of all City legislative bodies to be held with a teleconference option for members of those bodies and the public pursuant to Government Code Section 54953(e), and making findings and determinations in compliance with that law.

BACKGROUND:

On March 17, 2020, near the beginning of the COVID-19 pandemic, Governor Newsom issued Executive Order (“EO”) N-29-20 that “relaxed” the teleconferencing requirements of the Brown Act to facilitate virtual meetings during the COVID-19 declared emergency. The City Council and City’s Planning and Parks and Recreation Commissions have met remotely throughout portions of the pandemic to protect the health and safety of the public, staff, and commissioners. The relaxed Brown Act rules expired on September 30, 2021.

In its place, the Legislature passed Assembly Bill (“AB”) 361, which became effective October 1, 2021. Under AB 361, the Brown Act now provides that a Brown Act body, such as the City Council or a City Commission, that wants to continue to allow remote teleconference attendance by one or more its members may do so only if the Brown Act body makes one of three potential findings: (1) that it is meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; (2) the Brown Act body determines by majority vote that, whether as a result of the emergency, meeting in person would present an imminent risk

to the health or safety of attendees; or (3) that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

On November 9, 2021, the City Council adopted Resolution No. 2021-111, finding, as required by AB 361, that the City's legislative bodies continue to hold meetings during the COVID-19 pandemic, and state and local officials have imposed or recommended measures to promote social distancing.

AB 361 requires that the City Council review these requirements every 30 days, to determine whether in City Council and other City Commission meetings are still occurring during a proclaimed state of emergency, and whether state or local officials have imposed or recommended measures to promote social distancing. Staff has prepared Resolution No. 2021-121 for the City Council's consideration and adoption should the City Council determine during this 30-day review that the Council and other City legislative bodies are continuing to meet during a proclaimed state of emergency, and state and local officials continue to recommend measures to promote social distancing.

Should the City Council adopt proposed City Council Resolution No. 2021-121, the City will continue to follow certain procedures for its meetings. Those procedures required by AB 361 include the following:

- The City cannot require public comments to be submitted in advance of the meeting.
- Agencies may not close a public comment period until members of the public are given the opportunity to register and the time for that comment period has elapsed, whether it is for a specific agenda item or a general comment period. If an agency does not provide a timed public comment period, but takes public comment separately on each agenda item, it must allow a reasonable amount of time per agenda item to allow members of the public the opportunity to provide public comment, including time to register or “otherwise be recognized for the purpose of providing public comment.
- In the event of a disruption that prevents the City from broadcasting the remote meeting, or in the event of a disruption within the City's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, AB 361 prohibits the legislative body from taking any further action on items appearing on the meeting agenda until public access to the meeting via the call-in or internet-based options is restored.

FISCAL IMPACT:

There is no significant financial effect to the City for invoking the procedures under AB 361. If the City chooses to comply with the provisions of AB 361 to allow remote attendance of City Council or members of other legislative bodies of the City, some staff time and cost will be incurred in preparing agenda items to make monthly findings as to the need for the continued remote attendance by members. The City will continue to incur some cost by using Zoom at meetings for public attendance.

ALTERNATIVES:

1. Adopt Resolution No. 2021-121.
2. Do not adopt the Resolution and require all in-person attendance by members of City legislative bodies but with the exception that allows the Planning Commission to adopt the findings to validate remote attendance by one member at a prior meeting of that Commission.

ATTACHMENTS:

1. Resolution 2021-121

<https://banningca.gov/DocumentCenter/View/9770/Att-1-Resolution-2021-121-AB361-December-2021>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Ken King, Deputy Fire Marshal for Riverside County

MEETING DATE: December 14, 2021

SUBJECT: Resolution No. 2021-122 Acknowledging receipt of a report made by the Fire Chief of the Riverside County Fire Department regarding compliance with the annual inspection of certain occupancies pursuant to sections 13146.2 and 13146.3 of the California Health and Safety Code

RECOMMENDATION:

Staff recommends that the City Council adopt proposed City Council Resolution No. 2021-122, A Resolution of the City Council of the City of Banning, California, acknowledging receipt of a report made by the Fire Chief of the Riverside County Fire Department regarding compliance with the annual inspection of certain occupancies pursuant to sections 13146.2 and 13146.3 of the California Health and Safety Code (Attachment 2).

BACKGROUND:

In 2018, California Health and Safety Code Section 13146.4 was added by Senate Bill 1205 (SB1205) and became effective January 1, 2019. Section 13146.4 requires all fire departments, that provide fire protection services, to report annually to their administering authority on their compliance with Health and Safety Code Sections 13146.2 and 13146.3. Sections 13146.2 and 13146.3 require annual inspections of every building used as a public or private school (used by more than 6 persons for educational purpose through the 12th grade), hotel, motel, lodging house, apartment house (3 units or more) and certain residential care facilities for compliance with building standards.

The attached Resolution demonstrates the required compliance.

FISCAL IMPACT:

There is no fiscal impact associated with adoption of this resolution.

ALTERNATIVES:

1. Approve as recommended.

December 14, 2021

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

ATTACHMENTS:

1. Resolution 2021-122

<https://banningca.gov/DocumentCenter/View/9769/Att-1-Resolution-2021-122-Accepting-RivCo-Fire-Report>

2. California Health and Safety Code Section 13146.2 to Section 13146.4

<https://banningca.gov/DocumentCenter/View/9768/Att-2-SB1205-text>

Approved by:



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: December 14, 2021

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

RECOMMENDATION:

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

BACKGROUND:

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

ATTACHMENT:

1. Police Statistics for October 2021
<https://banningca.gov/DocumentCenter/View/9771/Stats-October-2021>

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: December 14, 2021

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

RECOMMENDATION:

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

WARRANT SUMMARY:

Description	Payment #	Amount	Total Amount
Checks:			
Checks Issued during Month	179984-180295	\$ 4,391,195.65	
Voided / Reissue Check		\$ 65,542.20	
	Check Total		\$ 4,325,653.45
	Wires Total	1065-1068	\$ 3,599,917.33
ACH payments:	9007108-9007134		
Payroll Direct Deposit	10/8/2021	\$ 467,221.13	
Payroll Direct Deposit	10/22/2021	\$ 432,294.54	
Other Payments		\$ 800,452.75	
	ACH Total		\$ 1,699,968.42
Payroll Checks:	12458-12478		
Payroll - Regular	10/8/2021	\$ 2,322.07	
Payroll - Regular	10/22/2021	\$ 2,457.64	
Manual Check(s)	10/25/2021	\$ 1,993.33	
	Payroll Check Total		\$ 6,773.04
	Total Warrants Issued for October 2021		\$ 9,632,312.24

ATTACHMENTS:

1. Fund List

<https://banningca.gov/DocumentCenter/View/9845/Attachment-1--Fund-List>

2. Warrant Report October 2021

<https://banningca.gov/DocumentCenter/View/9846/Attachment-2--Warrant-Report-October-2021>

3. Warrant Report Detail October 2021

<https://banningca.gov/DocumentCenter/View/9844/Attachment-3--Warrant-Report-Detail-October-2021>

4. Voided Check Log, Payroll Log & Registers – October 2021

<https://banningca.gov/DocumentCenter/View/9847/Attachment-4--Void-Check-Log-Payroll-Log-Payroll-Registers>

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: December 14, 2021

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

RECOMMENDATION:

That City Council receive and file Cash, Investment and Reserve Report for **October 31, 2021** in accordance with California Government Code 53646.

CASH AND INVESTMENT SUMMARY:

Description	Prior Month	Current Month
Funds Under Control of the City		
Cash		
Cash on Hand	\$ 4,155.00	\$ 4,155.00
Checking and Savings Accounts	\$ 10,691,446.39	\$ 9,834,260.35
Investments		
LAIF	\$ 39,745,172.25	\$ 39,769,374.14
Brokerage	\$ 27,535,097.93	\$ 27,542,418.64
Total Funds Under Control of the City	\$ 77,975,871.57	\$ 77,150,208.13
Funds Under Control of Fiscal Agents		
US Bank		
Restricted Bond Project Accounts	\$ 11,671,495.79	\$ 11,671,555.25
Restricted Bond Accounts	\$ 4,820,097.55	\$ 4,820,098.31
Union Bank & SCPPA		
Restricted Funds	\$ 4,648,718.64	\$ 4,489,981.52
Total Funds Under Control of Fiscal Agents	\$ 21,140,311.98	\$ 20,981,635.08
Total Funds	\$ 99,116,183.55	\$ 98,131,843.21

RESTRICTED, ASSIGNED, COMMITTED AND RESERVED SUMMARY:

Description	Prior Month	Current Month
Total Funds	\$ 99,116,183.55	\$ 98,131,843.21
Restricted Funds	\$ 43,445,123.69	\$ 43,328,805.21
Assigned Funds - Specific Purpose	\$ 8,881,339.00	\$ 8,879,643.68
Committed Funds - Specific Purpose	\$ 3,563,108.50	\$ 3,563,108.50
Fund Balance Reserves	\$ 13,828,391.68	\$ 13,828,391.68
Total Restricted, Assigned, Committed and Reserves	\$ 69,717,962.87	\$ 69,599,949.07
Operating Cash - Unrestricted Reserves	\$ 29,398,220.68	\$ 28,531,894.14
Less Accounts held in Investments	\$ 27,535,097.93	\$ 27,542,418.64
Liquid Cash	\$ 1,863,122.75	\$ 989,475.50

ATTACHMENTS:

1. Cash, Investment and Reserve Report October 2021
<https://banningca.gov/DocumentCenter/View/9852/Attachment-1--Cash-Investment-and-Reserve-Report-October-2021>
2. Investment Report October 2021
<https://banningca.gov/DocumentCenter/View/9848/Attachment-2--Investment-Report-October-2021>
3. City of Banning Broker Investment Report – October 2021
<https://banningca.gov/DocumentCenter/View/9849/Attachment-3--City-of-Banning-Broker-Report>
4. LAIF / PMIA Performance Report
<https://banningca.gov/DocumentCenter/View/9850/Attachment-4--PMIA-LAIF-Performance-Report-October-2021>
5. LAIF Market Valuation Report October 2021
<https://banningca.gov/DocumentCenter/View/9851/Attachment-5--LAIF-Market-Valuation-October-2021>

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
Cherie Johnson, Human Resources Manager

MEETING DATE: December 14, 2021

SUBJECT: Adopt Resolution 2021-116, Approving the Ratified Tentative Agreement with the International Brotherhood of Electrical Workers – Local 47, Representing General Unit Bargaining Unit, and Authorizing the City Manager to Finalize and Execute a Successor Memorandum of Understanding

RECOMMENDATION:

That City Council adopt Resolution 2021-116, approving the ratified tentative agreement with the International Brotherhood of Electrical Workers (IBEW) – Local 47, representing the General Unit bargaining unit employees, and authorizing the City Manager or designee to finalize and execute a successor Memorandum of Understanding (MOU).

BACKGROUND:

The City recognizes IBEW-Local 47 as the exclusive recognized employee organization representing full-time, permanent employees in the General Unit, relative to wages, hours, and other terms and conditions of employment as provided by Sections 3500. - 3510 of the California Government Code, otherwise known as the Meyers-Milias-Brown Act (MMBA). The prior MOU between the City and IBEW – General Unit employees expired on June 30, 2020.

Except as otherwise provided, the expired MOU between the City and IBEW shall extend and not be terminated until such time as a successor MOU is approved by City Council or City Council unilaterally implements its last, best and final offer after impasse procedures have been followed, whichever occurs first.

JUSTIFICATION:

At the instruction of City Council, representatives of the City of Banning have negotiated in good faith regarding wages, hours, and other terms and conditions of employment with authorized representatives of IBEW. The MMBA provides that the governing body shall

vote to accept or reject the tentative agreement within 30 days of the date it is first considered at a duly noticed public meeting.

On November 19, 2021, the City and IBEW signed a tentative agreement on certain deal points, which was subsequently ratified by IBEW membership on November 20, 2021.

The tentative agreement includes a base wage increase (also known as Cost of Living Adjustment – COLA) of 5%, retroactive to July 1, 2021. Unit members have not received a base wage increase since 2019 and have/are provided continuous service to the public during the COVID-19 pandemic. It is customary for agencies to consider an annual base wage increase to keep salaries at a marketable and fair rate.

Prior base wage (COLA) increases for this unit:

July 1, 2020	---
July 1, 2019	3%
July 1, 2018	3%
July 1, 2017	1%

FISCAL IMPACT:

Fiscal Services staff have estimated that the 5% base wage increase (COLA) will result in a fiscal impact totaling \$1,356,145 as follows for the next 5 years:

<u>Fiscal Year</u>	<u>Estimated Amount</u>
2022	\$ 261,172
2023	\$ 267,807
2024	\$ 272,387
2025	\$ 276,189
2026	\$ 278,590

The fiscal impacts associated with the 5% COLA will continue past the years shown above.

ALTERNATIVE:

The City Council may choose not to adopt Resolution No. 2021-116, which would result in the City returning to negotiations. Not adopting the tentative agreement might impact employee morale, recruitment efforts, complicate bargaining relationships and potentially risk a negotiations impasse.

ATTACHMENTS:

1. Resolution 2021-116

<https://banningca.gov/DocumentCenter/View/9871/Att-1-Resolution-2021-116-IBEW-General>

December 14, 2021

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2. Tentative Agreement between the City of Banning and IBEW General Unit
https://banningca.gov/DocumentCenter/View/9870/Att-2-TA-City-of-Banning---IBEW-General-9841538_1--signed
3. Summary of Estimated Costs of Proposed 5% Base Wage Increase
<https://banningca.gov/DocumentCenter/View/9874/Att-3-Bargaining-Units-Proposal-Estimated-Costs-IBEW>

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
Art Vela, Public Works Director

MEETING DATE: December 14, 2021

SUBJECT: Adopt Resolution 2021-118, Approving the Ratified Tentative Agreement with the International Brotherhood of Electrical Workers – Local 47, Representing Utility Unit Bargaining Unit, and Authorizing the City Manager to Finalize and Execute a Successor Memorandum of Understanding

RECOMMENDATION:

That City Council adopt Resolution 2021-118, approving the ratified tentative agreement with the International Brotherhood of Electrical Workers (IBEW) – Local 47, representing the Utility Unit bargaining unit employees, and authorizing the City Manager or designee to finalize and execute a successor Memorandum of Understanding (MOU).

BACKGROUND:

The City recognizes IBEW-Local 47 as the exclusive recognized employee organization representing full-time, permanent employees in the Utility Unit, relative to wages, hours, and other terms and conditions of employment as provided by Sections 3500. - 3510 of the California Government Code, otherwise known as the Meyers-Milias-Brown Act (MMBA). The prior MOU between the City and IBEW – Utility Unit employees expired on June 30, 2020.

Except as otherwise provided, the expired MOU between the City and IBEW shall extend and not be terminated until such time as a successor MOU is approved by City Council or City Council unilaterally implements its last, best and final offer after impasse procedures have been followed, whichever occurs first.

JUSTIFICATION:

At the instruction of City Council, representatives of the City of Banning have negotiated in good faith regarding wages, hours, and other terms and conditions of employment with authorized representatives of IBEW. The MMBA provides that the governing body shall

vote to accept or reject the tentative agreement within 30 days of the date it is first considered at a duly noticed public meeting.

On November 19, 2021, the City and IBEW signed a tentative agreement on certain deal points, which was subsequently ratified by IBEW membership on November 20, 2021.

The tentative agreement includes a base wage increase (also known as Cost of Living Adjustment – COLA) of 5%, retroactive to July 1, 2021. Unit members have not received a base wage increase since 2019 and have/are provided continuous service to the public during the COVID-19 pandemic. It is customary for agencies to consider an annual base wage increase to keep salaries at a marketable and fair rate.

Prior base wage (COLA) increases for this unit:

July 1, 2020	---
July 1, 2019	3%
July 1, 2018	3%
July 1, 2017	3%

FISCAL IMPACT:

Fiscal Services staff have estimated that the 5% base wage increase (COLA) will result in a fiscal impact totaling \$1,157,296 as follows for the next 5 years:

<u>Fiscal Year</u>	<u>Estimated Amount</u>
2022	\$ 223,174
2023	\$ 228,930
2024	\$ 232,538
2025	\$ 235,127
2026	\$ 237,527

The fiscal impacts associated with the 5% COLA will continue past the years shown above.

ALTERNATIVE:

The City Council may choose not to adopt Resolution No. 2021-118, which would result in the City returning to negotiations. Not adopting the tentative agreement might impact employee morale, recruitment efforts, complicate bargaining relationships and potentially risk a negotiations impasse.

ATTACHMENTS:

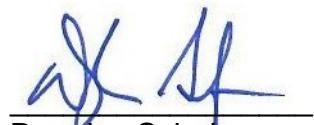
1. Resolution 2021-118
<https://banningca.gov/DocumentCenter/View/9868/Att-1-Resolution-2021-118-IBEW-Utility>

December 14, 2021

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2. Tentative Agreement between the City of Banning and IBEW Utility Unit
https://banningca.gov/DocumentCenter/View/9869/Att-2-IBEW-UTILITY-TA-9837170_1---signed
3. Summary of Estimated Costs of Proposed 5% Base Wage Increase
<https://banningca.gov/DocumentCenter/View/9874/Att-3-Bargaining-Units-Proposal-Estimated-Costs-IBEW>

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
Patrick Safari, Associate Civil Engineer

MEETING DATE: December 14, 2021

SUBJECT: Authorize the City Manager to Sign the Notice of Completion for Project No. 2018-01W, "Water Improvement Plan – Location 2" as Complete and Direct the City Clerk to Record the Notice of Completion

RECOMMENDATION:

That the City Council accept Project No. 2018-01W, "Water Improvement Plan – Location 2" as complete, authorize the City Manager or his designee to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

BACKGROUND:

On March 23, 2021 City Council adopted Resolution 2021-02 UA, awarding a Construction Agreement to MCC Equipment Rentals, Inc. for Project No. 2018-01W, "Water Improvement Plan – Location 2". The project was approved in the amount of \$1,398,051.50 with a 10% contingency for a total project budget of \$1,537,856.65.

The scope of work under this project included the installation of approximately 5,400 linear feet of twelve-inch and eight-inch ductile iron pipe to replace an existing six-inch riveted steel main and four-inch steel main installed over 80 years ago.

The six-inch main was located along Nicolet Street from 8th Street to 16th Street. The four-inch water mains were in alleys between Nicolet Street and Cottonwood Road and George Street and Cottonwood Road. The scope also included the relocation of water meters from the alleys to the front of the homes that they serve.

One project change order was processed in the amount of \$46,433.34 to install needed water services, base paving, grind and overlay, striping, main water line tie-in and miscellaneous work related to unforeseen field conditions such as damages to unmarked utilities and re-alignment of the water main line due to conflict with existing sewer main.

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JUSTIFICATION:

The lowest qualified bidder, MCC Equipment Rentals, Inc. was awarded the contract and work was completed on November 3, 2021. Public Works staff verified through inspections that the workmanship, materials, and procedures were satisfactory, and that the contractor had met the required contract obligations.

FISCAL IMPACT:

The project was completed in the amount of \$1,444,484.84, within the approved 10% contingency. The project was funded through the State of California Department of Water Resources Integrated Regional Water Management (IRWM) Implementation Grant valued at \$1,710,907.

ALTERNATIVE:

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

ATTACHMENT:

1. Notice of Completion

https://banningca.gov/DocumentCenter/View/9786/Notice-of-Completion_Project-2018-01W

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

MEETING DATE: December 14, 2021

SUBJECT: Adopt Resolution 2021-115, Approving the Banning Municipal Airport Capital Improvement Plan for 2022-2026

RECOMMENDATION:

Adopt Resolution 2021-115, approving the five-year (2022-2026) Airport Capital Improvement Plan (ACIP) and direct staff to submit the ACIP to the Federal Aviation Administration (FAA).

BACKGROUND:

Through the Airport Improvement Plan (AIP), the FAA provides grants for the planning and development of airports important to the National Airspace System (NAS) in the National Plan of Integrated Airport Systems (NPIAS). Eligible projects for AIP funding include improvements related to airport safety, capacity, security and environmental concerns.

The FAA will issue AIP grants for only those developments and planning projects that are included in the FAA approved ACIP. Grants provided by the FAA come with several assurances and obligations that the City of Banning must abide by.

On April 25 2017, City Council adopted Resolution 2017-44, "Declaring that it shall be a goal of the City of Banning to close the Banning Municipal Airport, as soon as legally permitted." In order to avoid further obligations related to FAA grants which could make meeting the goal set in Resolution 2017-44 difficult, staff has limited the number of projects included in the ACIP to those that are of high priority.

Last year staff recommended that the ACIP include a runway rehabilitation project to be constructed in 2021 for the purpose of increasing operational safety at the airport. A FAA Grant was prepared by Public Works staff and approved and accepted by the City Council on July 13, 2021 as part of Resolution 2021-66, in the amount of \$425,650 to cover the contractor, consultant and Public Works' staff time on this project. On July 13, 2021 City Council also approved Resolution 2021-67, awarding a Construction Contract for Project No. 2020-06, "Runway and Taxiway Improvements

December 14, 2021

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at Banning Municipal Airport" to American Road Maintenance in the amount of \$394,149.35 and a Professional Services Agreement with IMEG Corp. for Construction Management Services in the amount of \$27,500. The rehabilitation work is scheduled to occur in early December and should be completed by early 2022.

JUSTIFICATION:

The FAA requires sponsors, such as the City of Banning, to provide annual updates and submittals of their five-year ACIP. The ACIP is used to identify and prioritize airport capital improvement needs and to plan for the distribution of Airport Improvement Program (AIP) funds.

Due to current negotiations on the Grandave Studios as well as consideration for Resolution 2017-44, staff does not propose any projects at this time. The ACIP will be revisited annually and adjusted to meet the needs of the airport.

FISCAL IMPACT:

The approval of Resolution 2021- 115 would result in no impacts to the Airport Fund.

ALTERNATIVE:

Reject Resolution 2021-115 and provide direction to staff such as modifying the list of projects included in the ACIP.

ATTACHMENTS:

1. Resolution 2021-115
<https://banningca.gov/DocumentCenter/View/9785/Att-1-Reso-2021-115-ACIP-2022-2026>
2. 2022-2026 Airport CIP, FAA ACIP Forms 1 & 2
<https://banningca.gov/DocumentCenter/View/9784/Att-2-FAA-ACIP-2022-2026>

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: December 14, 2021

SUBJECT: Acceptance of Fiscal Year 2020 State Homeland Security Program (SHSP) Grant Award of \$34,741 and Approve Movement of Approved Funding In The Amount of \$26,309 for Fiber Optic Upgrade Project

RECOMMENDATION:

Staff recommend the City Council authorize the acceptance of the FY20 State Homeland Security Program Grant (SHSP) award in the amount of \$34,741 for the completion of the fiber optic connection to the communication tower at the Fire Department and authorize the City Manager or designee accept the grant funding and approve the movement of funds from the Measure J account to cover the project costs to account number 001-2200-421-90-53 in the amount of \$26,309.

BACKGROUND:

In 2019, the Banning Police Department submitted a grant proposal with the State Homeland Security Program Grant (SHSP) to improve interoperable communications. Specifically, to connect fiber optics from the Banning Police Station to the Communications Tower located behind Fire Station 89. This will improve communications with the county as well as bolster the 911 communications center. The grant was awarded to the Banning Police Department on 8-6-2021. The cost of the connection project has increased from mid-2019 when the initial estimate was completed.

JUSTIFICATION:

The connection of fiber optics improves the communication link with Riverside County, the State of California, and our public safety dispatch center.

FISCAL IMPACT:

The project went through purchasing and the bidding process. The accepted bid is \$55,500. Public Works has advised adding a 10-percent contingency to the contract in case of unforeseen issues, which brings the contract amount to \$61,050. Because the

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grant is for \$34,741, the Police Department is requesting authorization to pay the remaining \$26,309 with available funds in the Measure J Account. No additional funds will be allocated from the current budget.

ALTERNATIVES:

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

ATTACHMENTS:

1. Acceptance letter for the FY20 SHSP Grant Funding
<https://banningca.gov/DocumentCenter/View/9773/Att-1-FY20-Banning-PD>
2. Bid from Alfaro Communications Construction, Inc.
<https://banningca.gov/DocumentCenter/View/9772/Att-2-Alfaro-Comm-Const-Proposal-Summary>

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
Kevin Sin, Senior Civil Engineer

MEETING DATE: December 14, 2021

SUBJECT: Accept the Easement from Tri Pointe Homes for Public Water Utility Maintenance Purposes for Tract Map No. 37390-2 within the Atwell Development

RECOMMENDATION:

Accepting an easement from Tri Pointe Homes for public water utility maintenance purposes for Tract Map No. 37390-2 within the Atwell Development.

BACKGROUND:

Final Tract Map No. 37390-2 (Phase 2) within the Atwell Development Specific Plan was approved by City Council by Resolution No. 2020-114 on September 9, 2020. Tract Map No. 37390-2 subdivided into 112 numbered lots and 10 lettered lots for street and public utility purposes and open space on 34.04 acres of land.

The public water utility easement is within Lot "H" (a part of Planning Area 25) of Tract Map No. 37390-2 to cover the landscape irrigation meter vault and backflow preventer.

JUSTIFICATION:

It is necessary to obtain the easement in order for the City to access and provide maintenance for the public water utility.

FISCAL IMPACT:

There is no fiscal impact associated with this easement acceptance.

ALTERNATIVES:

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

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ATTACHMENTS:

1. Public Water Utility Easement

<https://banningca.gov/DocumentCenter/View/9782/Att-1-Easement>

2. Certificate of Acceptance

<https://banningca.gov/DocumentCenter/View/9781/Att-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: Caroline Patton, Deputy City Clerk *CP*

MEETING DATE: December 14, 2021

SUBJECT: Approval of Amendment to the Western Riverside Council of Governments' Joint Powers Agreement

RECOMMENDATION:

Staff respectfully recommend City Council approve the proposed amendments to the Joint Powers Agreement with and among the Western Riverside Council of Governments and its member agencies.

BACKGROUND:

A WRCOG subcommittee tasked with reviewing and updating the organization's bylaws met over a period of months and developed several substantive changes to the current bylaws. The group was then asked to do a similar analysis of the WRCOG Joint Powers Agreement. The WRCOG Executive Committee approved the changes at their November 1, 2021 and have asked the member cities to approve the same.

Key updates to the agreement include:

- Removing references to the membership of the Morongo Band of Mission Indians;
- Modernizing the language and processes, including removal of references to use of member agency employees to perform day-to-day WRCOG agency business;
- Revising indemnity language to better articulate WRCOG responsibility to indemnify member agencies; and,
- Striking an outdated arbitration provision.

Key updates to the bylaws include:

- Clarifying the role of the Chairperson to include, without limitation, the power to execute documents or take other actions as directed by the Executive Committee, make appointments to the Administration & Finance Committee, create and appoint to ad hoc committees, and call special meetings;
- Designating the Past Chair to preside over the meeting if the Chair, Vice-Chair, and Second Vice-Chair are absent;

- Clarifying the duties of the Executive Director and General Counsel and the Executive Committee's ultimate oversight authority over both;
- Establish the selection, oversight, and termination process of the Executive Director and General Counsel;
- Updating gender references; and
- Making various non-substantive language changes for clarity.

FISCAL IMPACT:

There is no fiscal impact to the city by approving this amendment to the

ALTERNATIVES:

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

ATTACHMENTS:

1. Amendment to Joint Powers Agreement with Western Riverside Council of Governments (WRCOG)
<https://banningca.gov/DocumentCenter/View/9787/Att-1-Proposed-Amendment-to-JPA-with-WRCOG>
2. Red-Lined Version of Proposed Amendment
<https://banningca.gov/DocumentCenter/View/9788/Att-2-Tracked-Changes-Version>
3. WRCOG Staff Report
<https://banningca.gov/DocumentCenter/View/9789/Att-3-Cover-Letter-from-WRCOG>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Tom Miller, Electric Utility Director

MEETING DATE: December 14, 2021

SUBJECT: Resolution 2021-119, Approving a Purchase Order with WEG Transformers USA for a Not-To-Exceed Amount of \$2.2 Million for Two (2) Replacement Power Transformers at Midway Substation

RECOMMENDATION:

Staff requests adoption of Resolution 2021-119, approving a purchase order with WEG Transformers USA not to exceed \$2.2 million dollars USD for two (2) power transformers including freight, offloading, service, spare parts, incidentals, tariffs, and taxes for each transformer.

BACKGROUND:

Power transformers are an exception item in the City's purchasing policies, therefore are subject to informal bidding processes. Because of the technical nature of this purchase, we did publish bid specifications. Staff, with the help of MJ Consulting Danville California, developed bid specifications for a 20 MVA 34.5 kV to 12.47 kV Delta-WYE step-down transformer with LTCs. BEU's transformer specifications were shared with several transformer manufacturers. The City received bid proposals from GE-Prolec, Iljin, VTC, and WEG transformer manufacturers.

Two key components considered in evaluating the proposals were the manufacturer's ability to meet BEU's specifications and the total life-time operating costs of the transformer. WEG closely matched the specification and has the lowest total life-time operating costs. MJ Consulting recommended and staff concurs that the WEG Transformers USA should be awarded the bid.

JUSTIFICATION:

Midway Substation was built in the 1970's and the existing (2) 7.5 MVA power transformers have been in service for approximately 50 years. In recent years, both power transformers have been exhibiting significant stress. The core temperatures are reaching critical peak temperatures. Also, oil sampling has indicated the internal

insulation is deteriorating. To maintain system reliability, staff is recommending replacing and increasing transformation capacity for future growth and continued system reliability.

FISCAL IMPACT:

Currently, together cash and reserves are \$19 million. Reserves will be used for the purchase of these transformers.

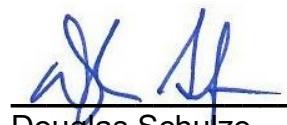
ALTERNATIVES:

1. Consider smaller replacement transformers.
2. Rebuild instead of replacing the existing transformers.
3. Wait until the transformers fail.
4. Do nothing.

ATTACHMENTS:

1. Resolution 2021-119
<https://banningca.gov/DocumentCenter/View/9825/Att-1-Resolution-2021-119-PO-WEG-Transformer-USA>
2. Bid Specifications
https://banningca.gov/DocumentCenter/View/9826/Att-2-City-Of-Banning_3-Rev-Spec
3. WEG Transformers USA Proposal
https://banningca.gov/DocumentCenter/View/9823/Att-3-WEG_Proposal-WTM21-545-Rev1-City-of-Banning-004
4. Recommendation Email from MJ Consulting
<https://banningca.gov/DocumentCenter/View/9824/Att-4-mjconsulting-email>

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

MEETING DATE: December 14, 2021

SUBJECT: Adopt Resolution 2021-120, adopting Caltrans Local Assistance Procedures Manual (LAPM) Chapter 10: Consultant Selection

RECOMMENDATION:

Staff recommends that City Council approve the following:

1. Adopt Resolution 2021-120, formally adopting Caltrans Local Assistance Procedures Manual (LAPM) Chapter 10 and any future updates as the written policies and procedures for the procurement, management, and administration of Architectural and Engineering (A&E) consultant contracts as prescribed in Chapter 10 of the LAPM titled, "Consultant Selection", for consultant contracts funded by sources administered by Caltrans.
2. Authorize the Director of Public Works to submit to Caltrans correspondence stating the City of Banning has adopted Chapter 10: Consultant Selection of the LAPM and any required related documents as the City's sponsored authorized representative.

BACKGROUND:

The U.S. Department of Transportation (DOT) awards grants to public agencies in California that are administered by the California Department of Transportation (Caltrans) to ensure compliance with the Federal regulations. To that end, Caltrans has developed the Local Assistance Procedures Manual (LAPM) as guidance for local agencies. "Chapter 10: Consultant Selection" sets forth policies and procedures to be utilized by local agencies in the procurement, management, and administration of Architectural and Engineering (A&E) consultant contracts on state and federal funded transportation projects to ensure compliance with applicable Federal and State laws and regulations and to maintain eligibility for Federal-Aid reimbursement.

Due to limited Public Works staffing and expertise in specific areas of design, certain services including Architectural and Engineering (A&E) are performed by qualified

consultant firms that the City utilizes. The provision 23 CFR 172.5 (b)(1) requires local agencies to adopt written policies and procedures for the procurement, management, and administration of engineering and design related consultant services in accordance with applicable Federal and State laws and regulations.

JUSTIFICATION:

The adoption of Resolution No. 2021-120 is essential to obtain and utilize federal grants for Architectural and Engineering design services administered by Caltrans.

FISCAL IMPACT:

There is no fiscal impact in adopting Caltrans Chapter 10: Consultant Selection of the LAPM.

ALTERNATIVES:

The City Council may choose not to adopt Resolution No. 2021-120 at this time, which would result in the City not being eligible to receive Federal Grant funding for Architectural and Engineering consultant services for transportation projects. The City would have to identify another funding source for these services or direct staff to not apply for these Federal grants.

ATTACHMENTS:

1. Resolution 2021-120
<https://banningca.gov/DocumentCenter/View/9831/Att-1-Resolution-2021-120-Caltrans-Chapter-10-Adoptio>
2. LAPM Chapter 10: Consultant Selection
<https://banningca.gov/DocumentCenter/View/9832/Att-2-LAPM-CH-10>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Jennifer Jackson, Grants Coordinator

MEETING DATE: December 14, 2021

SUBJECT: Resolution 2021-114, Authorizing the Department of Water Resources Urban and Multibenefit Grant Application, Acceptance and Execution for the Critical Well Relocation (M-12A) for Drought Relief Project

RECOMMENDATION:

City Council adopt Resolution 2021-114 approving the following:

1. That pursuant and subject to all the terms and provisions of Budget Act of 2021, the City of Banning Public Works Director or designee is hereby authorized and directed to prepare and file an application for funding with the Department of Water Resources and take such other actions as necessary or appropriate to obtain grant funding.
2. The City of Banning Public Works Director or designee is hereby authorized and directed to execute the funding agreement with the Department of Water Resources and any amendments thereto.
3. The City of Banning Public Works Director or designee is hereby authorized and directed to submit any required documents, invoices, and reports required to obtain grant funding.

BACKGROUND:

In October 2021, pursuant to the State Legislature's passage of the Budget Act of 2021 and Trailer Bill AB 148, the California Department of Water Resources (DWR) announced the Urban and Multibenefit Drought Relief Grant Program for Fiscal Year 2022.

The competitive grant program provides \$200 million in funding for drought relief projects of greater than \$2 million without a local match requirement. Applications are being accepted in a phased schedule with the awards announcement for the first phase expected December 2021.

The grant program is designed to support projects that can be rapidly implemented to address drought-related issues. Specifically, DWR is looking at projects involving new groundwater wells or well rehabilitation, system interties, and water system projects that support immediate drought response.

This grant also provides special consideration for disadvantaged and severely disadvantaged communities.

JUSTIFICATION:

The city is requesting \$2,475,000 in funding assistance from the Department of Water Resources Urban and Multibenefit Drought Relief Grant Program for the Banning Critical Well Relocation (M-12A) for Drought Relief Project.

Unrelenting drought, water infrastructure losses due to wildfires and a well cave-in are creating urgent water supply concerns for the city. The 2020 Apple Fire (FM-5325-CA) destroyed critical water infrastructure. Also in 2020, Banning lost another well, M-12, to a cave-in. Relocating and replacing M-12 is the most expedient way for Banning to meet water supply needs during a drought in our severely disadvantaged community.

The proposed Banning Critical Well Relocation (M-12A) for Drought Relief project will construct a new municipal well. In February 2020, the city discovered that the original M-12 well was not producing any water. Through various repair attempts, a skilled contractor found the pump column and well casing were stuck together and could not be extracted. The well had begun caving in and proper abandonment of the well was necessary. The State's Division of Drinking Water authorized abandonment and redrilling of a new well on the same site. The city has determined that well M-12 will be replaced with a potable well (M-12A), necessary to meet the City's increasing demands for potable water. This project will improve availability and affordability of potable water for customers in Banning. The quantifiable benefits of the project are 1,000 gallons per minute (GPM) yield of safe drinking water (groundwater supply) and 1.4 million gallons per day (MGD) maximum safe yield which equates to 1,568 Acre Feet per Year (water supply reliability).

FISCAL IMPACT:

No funding match is required for this Program; however, applicants are encouraged to use other fund sources to supplement the grant funds.

Grant funds requested = \$2,475,000

Water Enterprise Funds (local match) = \$55,000

Total Project Cost = \$2,530,000

ALTERNATIVES:

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

December 14, 2021

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ATTACHMENT:

1. Resolution 2021-114

<https://banningca.gov/DocumentCenter/View/9830/Att-1-Resolution-2021-114-Critical-Well>

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: December 14, 2021

SUBJECT: Resolution 2021-117, Establishing a Pre-Approved Architect Services Vendor List for the Remainder of Fiscal Year 2021/2022 through Fiscal Year 2025/2026

RECOMMENDATION:

City Council adopt Resolution 2021-117 establishing a pre-approved architect services vendor list for the remainder of the current fiscal year (FY) through FY 2025/2026.

BACKGROUND:

The Public Works Department is responsible for the management of capital improvement projects related to water, wastewater, streets and buildings. In an effort to expedite the process of obtaining architectural services for these types of projects, staff is recommending the establishment of a pre-approved vendor list. The establishment of a list will reduce staff resources spent in preparing and evaluating request for proposals (RFPs) and submittals. This vendor list will be available Citywide for all departments.

A notice inviting qualifications was released through ProcureNow on October 26, 2021 with responses being due November 17, 2021. In response to these efforts, three (3) proposals were received from the below consultants.

A three-person evaluation committee comprised of staff from Public Works, Community Services and Electric Departments evaluated the proposals based on qualifications; experience and references; approach and methodology, and pricing. As a result, and based on below provided scores, staff recommends that the three qualified firms be included on the pre-approved vendor list.

<u>Consultant</u>	<u>Score</u>
1) BOA Architecture	84
2) TR Design Group, Inc.	82
3) Infrastructure Engineers	77

December 14, 2021

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JUSTIFICATION:

Establishing a pre-approved vendor list would expedite the process of obtaining these services as well as reduce the time spent by city staff preparing and evaluating formal RFPs and proposals.

FISCAL IMPACT:

There is no fiscal impact related to this resolution. The funding to provide architect services will be determined at the time of contract award within the allocated operational or project approved budget.

ALTERNATIVES:

Reject Resolution 2021-117. If rejected, staff will prepare project specific RFPs for architectural services which will require additional staff hours to prepare RFPs and evaluate submitted proposals.

ATTACHMENTS:

1. Resolution 2021-117

https://banningca.gov/DocumentCenter/View/9828/Att-1-Resolution-2021-117_Establish-Architectural-Services

2. Request for Qualifications 21-020

<https://banningca.gov/DocumentCenter/View/9829/Att-2-RFQ-21-020>

3. Firms Directly Solicited

<https://banningca.gov/DocumentCenter/View/9827/Att-3-Direct-Solicitations>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Arturo Vela, Director of Public Works
Luis Cardenas, Senior Civil Engineer

MEETING DATE: December 14, 2021

SUBJECT: Approve Resolution 2021-125, Authorizing the Director of Public Works to Vote on Behalf of the City of Banning During a Public Meeting to Adopt the San Gorgonio Pass Groundwater Sustainability Plan

RECOMMENDATION:

Approve Resolution 2021-125, authorizing the City Engineer/Director of Public Works to vote on behalf of the City of Banning during a public meeting to be held in January 2022 to formally adopt the San Gorgonio Pass Groundwater Sustainability Plan (GSP).

BACKGROUND:

Since 2015 the City of Banning has been involved in implementation of the Sustainable Groundwater Management Act (SGMA), a State-driven regulation meant to ensure the long-term viability of groundwater aquifers throughout the State. The many basins in California were categorized as high-priority, medium-priority, and low-priority basins and had deadlines assigned to comply with SGMA based on the priority level. The San Gorgonio Pass Subbasin, where the City of Banning's water resources are located, is a medium-priority basin and has a deadline of January 31, 2022 to submit a Groundwater Sustainability Plan (GSP). SGMA regulations do not apply to adjudicated groundwater basins, such as the Beaumont basin, which is already managed sustainably by the Beaumont Watermaster.

The San Gorgonio Pass Subbasin includes three separate Groundwater Sustainability Agencies: the Desert Water Agency-GSA, the Verbenia-GSA, and the San Gorgonio Pass-GSA which together decided to collaborate on a single combined plan for the SGP Subbasin. The City of Banning belongs to the SGP-GSA, which was formed through a Memorandum of Agreement approved by City Council on March 28, 2017 and is made up of the City of Banning, San Gorgonio Pass Water Agency (SGPWA), Cabazon Water District, and Banning Heights Mutual Water District.

December 14, 2021

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On behalf of the San Gorgonio Pass Subbasin, the SGPWA applied for and was successful in obtaining State grant funding for the planning work required to develop a GSP. The grant, in the amount of \$1,000,000 will cover nearly all consultant fees for preparation of the GSP. There may be a small cost overrun before the project is completed that will be split among the GSA member agencies.

During the past two years the San Gorgonio Pass GSAs have worked with consulting firm Provost & Pritchard and two sub-consultants to gather information on the water resources of the region, establish a contact list of stakeholders, make estimates of past and future water extractions, update and calibrate a groundwater model previously worked on by the USGS and Woodard & Curran, run model analyses of various scenarios to make predictions about future water levels and water budgets, and created a Data Management System for centralized tracking of observed groundwater levels and water quality in the subbasin.

The draft Groundwater Sustainability Plan was made available for public review from October 1, 2021 through November 30, 2021 via a dedicated website: <https://www.sqpgsas.org/>. Stakeholders in the region were notified through paper and electronic means of availability of the GSP. Several comments were received and will be included with the final version of the GSP.

Each GSA will hold a public hearing in early January, 2022 to adopt the final version of the GSP. Because the San Gorgonio Pass-GSA is made up of several agencies, each with their own governing body, it is most expedient for each member agency to designate one individual to represent and vote on their agency during the public meeting. Arturo Vela, Director of Public Works has been the City of Banning's main representative during the GSP preparation process. As such, staff recommends authorizing him to vote on behalf of the City of Banning.

Moving forward, there will need to be annual reports submitted to the State, with the first report due in April, 2022. Additionally, the GSP will need to be updated every five years, to track progress and ensure measures are being implemented to achieve sustainability of the groundwater subbasin by the year 2042.

JUSTIFICATION:

To comply with SGMA, the San Gorgonio Pass Subbasin must adopt a Groundwater Sustainability Plan by the January 31, 2022 deadline. In preparation to meet that deadline, the three GSA's will hold separate public hearings to adopt the final version of the document. Failure to comply with SGMA could jeopardize the region's ability to obtain future grant funding from the State as well result in greater oversight by the State Water Resources Control Board.

The San Gorgonio Pass GSP is a planning document that builds on the previous work by various agencies, including Urban Water Management Plans developed by SGPWA and the City of Banning and other regional efforts.

FISCAL IMPACT:

None at this time. There may be a small cost overrun before the current contract with Provost & Pritchard is completed that will be split among the member agencies. Long-term costs of complying with SGMA regulations and submitting annual reports is yet to be determined.

ALTERNATIVES:

1. Designate another individual, such as the City Manager or an elected official to represent the City of Banning and vote during the public meeting in January 2022.
2. Reject the resolution and provide alternative direction.

ATTACHMENTS:

1. Resolution 2021-125
<https://banningca.gov/DocumentCenter/View/9813/Att-1-Resolution-2021-125>
2. Public Draft – San Gorgonio Pass Groundwater Sustainability Plan
<https://banningca.gov/DocumentCenter/View/9814/Att-2-PublicDraft-SanGorgonioPassGroundwaterSustainabilityPlan>
3. Presentation - SGMA Overview and GSP Preparation
https://banningca.gov/DocumentCenter/View/9815/Att-3-Presentation-SGMAOverview_and_GSP_Preparation

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney

MEETING DATE: December 14, 2021

SUBJECT: Consider the Potential Uses of Opioid Settlement Funds, Authorize the City Manager to Participate in the National Opioid Settlement, Approve the Agreement with the County for the use of the City's Allocation of those funds, and authorize the City Manager to execute that County/City Agreement

RECOMMENDATION:

Staff recommends that the City Council approve the attached resolution authorizing the City to enter into the settlement agreements with McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc., agree to the terms of the Memorandum of Understanding allocating settlement proceeds, and authorize entry into the Memorandum of Understanding with the Attorney General, and enter into the local allocation agreement with the County of Riverside, and authorize the City Manager to execute those Agreements and take all actions necessary and convenient to implement the settlements.

BACKGROUND:

The opioid epidemic has cost hundreds of thousands of lives, and ravaged families and communities across the nation. There were approximately 93,000 opioid overdose deaths nationwide in 2020 and 3,244 deaths statewide in 2019 according to the State of California Department of Justice. States and local governments have filed nearly 4,000 lawsuits against pharmaceutical distributors and manufacturers over the years for the detrimental impacts of opioids. On July 21, 2021, two proposed Nationwide Opioid Litigation Settlement Agreements (Settlements) in the amount of \$26 billion were announced that would resolve all opioid litigation brought against the three largest pharmaceutical distributors, McKesson, Cardinal Health and AmerisourceBergen (Distributors) and one manufacturer, Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively, Janssen). The Settlements require the Distributors to pay up to \$21 billion over 18 years; and require Janssen to pay \$5 billion over a nine-year period. Approximately \$22.7 billion is earmarked for remediation and abatement activities and more than \$2.2 billion is estimated to be allocated to California.

Pursuant to the Settlements with the Distributors and Janssen, the allocation of settlement funds in California will be distributed as follows:

- 15% of the total allocation to the State of California will go to the State Fund, which will be used by the State for opioid remediation;
- 70% will be allocated to the Abatement Accounts Fund, which will be the pool of funds distributed to participating California counties and cities;
- 15% will be allocated to the Subdivision Fund, which is distributed to plaintiff subdivisions that filed a lawsuit against one or more of the opioid defendants.

The Settlements also provide for injunctive relief that requires important changes to the Distributors' and Janssen's conduct to better protect the nation's health and welfare. Under the Settlements, the Distributors will be required to create a groundbreaking clearinghouse to account not only for their own shipments, but also the shipments of the other distributors in order to detect, stop, and report suspicious opioid orders. Additionally, Janssen will not market or sell any opioid products in the next ten years, has agreed to cease lobbying concerning prescription opioids for ten years, and has agreed to make the clinic trial data for its discontinued opioids available for medical research.

FISCAL IMPACT:

California's State-Subdivision Agreements indicate the City of Banning will be receiving an abatement percentage of 0.017% of the \$2.2 billion estimated settlement funds allocated to California, if the City elects to participate. This equates to the City of Banning receiving up to an estimated amount of \$374,000 in settlement proceeds, which is subject to change depending on the number of local government entities participating and/or changes to the calculated allocation percentages. A portion of the allocated funds will be paid over a period of 18 years from the Distributors settlement and the funds from Janssen settlement will be paid over a nine-year period.

DISCUSSION:

To receive the settlement funds, states and local governments must decide to join the national settlement and states will receive a greater share of the funds depending on the number of its local governments that participate. The State of California has decided to join the Settlements and recently completed State-Subdivision Agreements regarding the distribution and use of settlement funds for both the Distributors and Janssen settlements. This determines how the funds will be allocated to local jurisdictions. There is no need for cities to have filed a lawsuit to participate. However, towns, cities, and counties with a population of less than 10,000 are not eligible to receive the funds. The City of Banning is eligible to participate since it meets the population requirement.

Local entities have until January 2, 2022, to register and opt into the Settlements with the Settlement Administrator. Cities that participate in the Settlements may elect to receive the funds directly if they notify the Settlement Administrator at least 60 days prior to the payment date. Otherwise, the cities' allocation share will automatically be paid to their respective county if that county also participates in the Settlements. Cities that elect to receive the payment directly are advised to consider if they have the existing staff and

infrastructure to provide the required opioid remediation services and meet the reporting requirements mandated by the Settlement Administrator. Cities may also elect to receive only a portion of the funds and disburse the remaining share to the county. Funds may be disbursed to states and local governments as soon as April 2022 if certain requirements are met.

Cities that decide to directly receive funds may only use the funds for specified remediation purposes as listed in Exhibit "E" of the Settlements and must also be aware that no less than 50% of the settlement funds allocated each year must be spent on one or more of the following High Impact Abatement Activities:

- the provision of matching funds or operating costs for substance use disorder facilities within the Behavioral Health Continuum Infrastructure Program;
- creating new or expanded Substance Use Disorder ("SUD") treatment infrastructure;
- addressing the needs of communities of color and vulnerable populations (including sheltered and unsheltered homeless populations) that are disproportionately impacted by SUD;
- diversion of people with SUD from the justice system into treatment, including by providing training and resources to first and early responders (sworn and non-sworn) and implementing best practices for outreach, diversion and deflection, employability, restorative justice, and harm reduction; and/or
- interventions to prevent drug addiction in vulnerable youth.

The City does not have the staff nor the services to meet the required opioid remediation uses. However, the County of Riverside will be participating in the settlement and stated they have existing services and resources on opioids and substance use disorder, medication assisted treatment, and prevention services. They also have a provider program that works with physicians, dentists, and other prescribing professionals to train them on safe prescribing in addition to offering naloxone overdose rescue kits that family members can obtain to have on hand for at-risk family members or loved ones. The County's substance use disorder treatment program follows a continuum of care, which includes early intervention, outpatient services, residential inpatient services, medically managed services, a 24-hour hotline, withdrawal management, recovery support services, and medication assisted treatment. The program also includes services for justice-system involved clients as well as services for pregnant and/or parenting women. Additionally, Riverside County Behavioral Health offers screening, American Society of Addiction Medicine-based assessment and Treatment Planning, individual and group counseling, crisis intervention, family therapy, case management, and recovering support services. All the services and programs the County offers to combat opioid addiction above would meet the opioid remediation strategies prescribed by the Settlements.

The County is encouraging full participation from all cities to maximize the dollars that flow into California and the County to help combat the opioid epidemic, otherwise those jurisdictions who do not participate will not receive any funding and decrease the overall pool of funds allocated to the State and County. Since counties that receive the funds

allocated to cities are not required to spend those funds exclusively for remediation services for that city, staff reached out to the County of Riverside to determine how they will use the funds if the City elected to have the County receive and manage the share allocated for Banning. The County of Riverside has proposed an agreement that ensures the County will ensure the efficient use of the funds for the prescribed opioid remediation strategies; maximize the scope and scale of relief; be responsible for all reporting requirements, tracking of deposits and expenditures, and audit requests; and ensure their services are made available to Banning residents.

Due to the benefits of participating, staff recommends the City of Banning make sure it is already registered for receipt of the national settlement agreements and opt into the national settlements to meet the deadline of January 2, 2022. Once registered, the City will receive information and documents required to participate in the national settlements. More information about the National Opioid Settlements and the California State-Subdivision Agreements can be found at <https://nationalopioidsettlement.com> and <https://oag.ca.gov/opioids>.

ATTACHMENTS:

1. Resolution 2021-128
<https://banningca.gov/DocumentCenter/View/9853/Att-1-Resolution-2021-128---National-Opioid-Settlement>
2. Exhibit E to the National Settlement Agreements describing the allowable uses for the Settlement Funds
<https://banningca.gov/DocumentCenter/View/9862/Att-2-Exhibit-E---List-of-Opioid-Remediation-Uses-002>
3. County of Riverside Local Allocation Agreement
<https://banningca.gov/DocumentCenter/View/9863/Att-3-Agreement-between-County-of-Riverside>

Approved by:



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: December 14, 2021

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

RECOMMENDATION:

Receive and file contracts approved under the City Manager's signature authority, including CUPPCAA projects, for the month of September, October and November 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.

ATTACHMENTS:

1. Contracts List for September 2021
<https://banningca.gov/DocumentCenter/View/9885/September-2021>
2. Contracts List for October 2021
<https://banningca.gov/DocumentCenter/View/9884/October-2021>
3. Contracts List for November 2021
<https://banningca.gov/DocumentCenter/View/9886/November-2021>

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: Suzanne Cook, Finance Director
A'ja Wallace, Budget & Financial Analyst

MEETING DATE: December 14, 2021

SUBJECT: Review Fiscal Year 2021-22 First Quarter Budget Update and Financial Status Report

RECOMMENDATION:

That the City Council review the Fiscal Year 2021-22 first Quarter Budget Update and Financial Status Report for the quarter ending September 30, 2021.

BACKGROUND:

The Fiscal Year 2021-22 Budget and Financial Update for the first quarter ending September 30, 2021, provides a review of the City's financial position relative to the FY 2021-22 adjusted budget.

JUSTIFICATION:

FIRST QUARTER REPORT

In this report, projected financial results for the first quarter (July-September) are compared to the annual adjusted budget. The significant differences (variances) between budgeted and actuals through September 30, 2021, are discussed below.

Actual revenues and expenditures through quarter one of FY 2021-22 have been analyzed to evaluate any variances from budget for the same period, in order to determine whether the variance results from timing of revenues and expenditures or is expected to persist as a result of a change in operations or economic circumstance. Thereby, requiring a mid-year adjustment.

BUDGET POLICY

As outlined in the City Council's adopted budget policies, the adoption of the budget is not the end of the budget process. To ensure execution of the Council's adopted policies, the City will use a formal reporting and review process to monitor and evaluate progress and assist in achieving stated objectives and priorities. The city will maintain a budgetary

control system to ensure compliance with the budget. The city will prepare quarterly status reports comparing actual revenues and expenditures to the budget amounts. Finally, the City has adopted a policy of full cost recovery and utilizes a cost allocation plan where the full cost of City services both direct and indirect, shall be calculated in all cases where fees are charged and/or services contracts are negotiated to cover operating costs. This will also include services performed by one city department for another city department. In all cases, unless precluded by law, contracts, or current City Council policy, full costs shall be recovered.

REVENUE POLICY

1. The City will strive to maintain a diversified revenue system to protect it from short-run fluctuations in any one revenue source.
2. State and Federal funds may be utilized, but only when the City can be assured that the total costs and requirements of accepting funds are known and judged not to adversely impact the City's General Fund.
3. The City, where allowed by law, will review all fees, licenses, permits, fines, utility user fees and other miscellaneous charges on a periodic basis taking into consideration the City's policy of full cost recovery. They will be adjusted as necessary after considering inflation, processing time, expenses to the City, and any other factors pertinent to the specific item. A regular review and implementation of index escalators will be applied wherever authorized by resolution or ordinance.
4. An administrative fee will be charged where allowed by law for administrative services, provided the fee is based on the reasonable estimated direct and indirect costs incurred.
5. All proposed projects will have a detailed capital budget specifying total costs and total revenues and shall identify the source of proposed revenues.
6. Utility fees charged to City departments shall be applied at the municipal rate.

GENERAL FUND SUMMARY (Also see Attachment 1)

As of September 31, 2021, the General Fund is currently reflecting a deficit of \$1.6 million. A significant reason for this deficit variance in the 1st quarter is due to timing of revenue expected throughout the fiscal year, namely property taxes, franchise taxes and transient occupancy taxes. It would be prudent to acknowledge cannabis tax revenue received as of the 1st quarter is \$677,814 of the \$1.2 million budgeted for the fiscal year (approximately 56%).

As noted in the summary below, staff analysis indicates that labor costs are at 21% of budget at the end of the first quarter. The variance is attributable to vacancies, retirements, and staff transition. Services and supplies have used 9% of the budgeted amount while capital has used 6% of the budget. In contrast, repairs and maintenance have used 46% of the budget which may be attributed to one-time and emergency repairs. Staff will continue to monitor this area to determine if a mid-year adjustment may be required. See below for a summary of General Fund operating revenues and operating expenditures.

Staff Report: Fiscal Year 2021-22 First Quarter Financial Report

December 14, 2021

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Q1 FY 2021/22 SUMMARY

	Revised	Jul-Sept	% of	Variance	
	Budget			Remaining Budget	
	2021/22			Budget Used	\$
Operating Revenues	25,406,419	3,051,901	12%	22,354,518	88%
Taxes	13,205,807	1,526,807	12%	11,679,000	88%
Property Taxes	2,932,779	0	0%	2,932,779	100%
In Lieu Property Tax (VLF)	2,716,767	0	0%	2,716,767	100%
Sales Tax	5,078,122	1,190,688	23%	3,887,434	77%
Other Taxes	2,478,139	336,119	14%	2,142,020	86%
Other Operating Revenues	12,200,612	1,525,094	13%	10,675,518	87%
Building Permits Total	565,000	125,602	22%	439,398	78%
Other Permits Total	1,943,121	388,203	20%	1,554,918	80%
Intergovernmental Revenues	3,845,148	0	0%		0%
Charges for Services	646,507	171,550	27%	474,957	73%
Use of Money and Property	74,026	45,789	62%	28,237	38%
Fines and Forfeitures	233,389	19,198	8%	214,191	92%
Contributions	5,400	2,700	50%	2,700	50%
Miscellaneous Revenue	1,818,247	4,675	0%	1,813,572	100%
Transfers/Recoveries	3,069,774	767,377	25%	2,302,397	75%
Operating Expenditures	26,960,985	4,690,620	17%	22,270,365	83%
Personnel	15,896,282	3,343,794	21%	12,552,488	79%
Services and Supplies	8,974,202	841,814	9%	8,132,388	91%
Repairs and Maintenance	392,284	181,272	46%	211,012	54%
Capital	163,132	9,019	6%	154,113	94%
Transfers Out	1,535,085	314,721	21%	1,220,364	79%
Operating Surplus/(Deficit)	(1,554,566)	(1,638,719)		84,153	

Staff Report: Fiscal Year 2021-22 First Quarter Financial Report

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GENERAL FUND DEPARTMENTS

See Table 1 for a list of general fund departments and budget that has been used through September 31, 2021.

Table 1 General Fund Department Summary

Q1 FY 21-22 DEPARTMENTS		July 2021-22 Actual	August 2021-22 Actual	September 2021-22 Actual	2021-22 Budget	% of Budget Used
GENERAL GOVERNMENT		281,094	535,201	1,023,621	5,511,005	19%
GENERAL GOVERNMENT	CITY COUNCIL	9,245	16,047	23,766	112,642	21%
GENERAL GOVERNMENT	CITY MANAGER	42,957	87,632	135,036	749,292	18%
GENERAL GOVERNMENT	ECONOMIC DEVELOPMENT	26,145	45,311	68,710	243,330	28%
GENERAL GOVERNMENT	PERSONNEL	22,174	40,674	57,546	471,753	12%
GENERAL GOVERNMENT	CITY CLERK	14,933	24,466	33,856	130,271	26%
GENERAL GOVERNMENT	ELECTIONS	0	0	0	4,000	0%
GENERAL GOVERNMENT	CITY ATTORNEY	0	0	93,613	509,067	18%
GENERAL GOVERNMENT	FINANCE	130,924	240,339	366,994	1,719,969	21%
GENERAL GOVERNMENT	BUILDING MAINTENANCE	24,381	58,504	90,716	641,927	14%
GENERAL GOVERNMENT	CENTRAL SERVICES	10,335	22,228	153,384	928,754	17%
PUBLIC SAFETY		822,067	1,602,988	2,565,079	15,128,659	17%
PUBLIC SAFETY	POLICE	787,825	1,545,767	2,468,857	10,931,474	23%
PUBLIC SAFETY	ANIMAL CONTROL	27,754	44,857	72,241	430,350	17%
PUBLIC SAFETY	FIRE	6,489	12,364	23,981	3,766,835	1%
COMMUNITY DEVELOPMENT		158,031	442,900	724,997	4,601,676	16%
COMMUNITY DEVELOPMENT	MEDIA	6,793	15,311	29,840	136,395	22%
COMMUNITY DEVELOPMENT	BUILDING SAFETY	70,108	122,565	176,166	1,446,779	12%
COMMUNITY DEVELOPMENT	PLANNING	37,532	119,430	201,284	889,356	23%
COMMUNITY DEVELOPMENT	ENGINEERING	29,453	139,194	271,307	2,027,746	13%
COMMUNITY DEVELOPMENT	COMMUNITY ENHANCEMENT	14,145	46,400	46,400	101,400	46%
CULTURE AND LEISURE		140,550	267,933	376,922	1,719,645	22%
CULTURE AND LEISURE	PARKS	55,845	105,414	163,946	733,623	22%
CULTURE AND LEISURE	RECREATION	84,705	162,519	212,977	986,022	22%
Total		1,401,742	2,849,022	4,690,620	26,960,985	17%

**Monthly amounts shown are cumulative*

Staff Report: Fiscal Year 2021-22 First Quarter Financial Report

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SPECIAL REVENUE FUNDS

See Table 2 for a detailed list of Special revenue funds and what has been received through September 31, 2021.

Table 2 Special Revenue Funds

Q1 FY 21-22-SPECIAL REVENUE FUNDS	July 2021-22 Actual	August 2021-22 Actual	September 2021-22 Actual	2021-22 Budget	% of Budget Received
(002) DEVELOPER DEPOSIT FUND	16,527	25,784	39,804	99,199	40%
(003) RIVERSIDE COUNTY MOU FUND	0	0	0	0	0%
(005) ADMIN ALLOWANCE FUND	125,000	125,000	125,000	250,000	50%
(100) GAS TAX STREET FUND	173,863	313,298	506,047	1,626,022	31%
(101) MEASURE A STREET FUND	0	0	0	1,259,000	0%
(102) RMRA (SB1) GAS TAX FUND	0	0	109,401	729,697	15%
(110) CDBG FUND	0	0	0	254,447	0%
(111) LANDSCAPE MAINTENANCE FUND	0	0	0	209,145	0%
(132) AIR QUALITY IMPROVEMENT FUND	0	0	0	42,507	0%
(140) ASSET FORFEIT-POLICE FUND	0	0	0	565	0%
(148) SUPPLEMENTAL LAW ENFORCEMENT FUND	0	0	0	101,321	0%
(150) STATE PARK BOND ACT FUND	0	0	0	196,926	0%
(200) SPECIAL DONATION FUND	3,000	3,000	3,200	15,983	20%
(201) SENIOR CENTER ACTIVITIES FUND	0	0	0	8,384	0%
(202) ANIMAL CONTROL RESERVE FUND	0	0	0	0	0%
(203) POLICE VOLUNTEER FUND	0	0	375	1,502	25%
(221) CSCDA-CFD 2020-02 ATWELL	0	0	0	0	0%
(222) ARPA AMERICAN RESCUE PLAN	3,734,363			3,734,363	100%
(300) CITY ADMINISTRATION DEBT SVC FUND	0	0	0	0	0%
Total	4,052,753	467,082	783,826	8,529,061	9%

**Monthly amounts shown are cumulative*

PROPRIETARY/ENTERPRISE FUNDS

Electric

At first quarter, Electric has used 21% of its FY 21-22 expenditure budget and has received 27% of its projected revenue for the year.

Table 3 Electric Revenues vs Expenditures

REVENUES/EXPENSES	CATEGORY	July 2021-22 Actual	August 2021-22 Actual	September 2021-22 Actual	2021-22 Budget
Revenues	Revenues Totals	3,130,507	6,813,621	11,031,809	40,184,211
Revenues	SALES AND SERVICE CHARGES	3,070,979	6,739,535	10,938,151	29,103,212
Revenues	INTERGOVERNMENTAL	1,060	1,325	2,120	13,515
Revenues	USE OF MONEY AND PROPERTY	0	24	50	39,540
Revenues	MISCELLANEOUS INCOME	58,468	72,737	91,488	2,738,662
Revenues	TRANSFERS IN	0	0	0	8,289,282
Expenses	Expenses Totals	441,932	3,801,156	7,401,352	35,417,623
Expenses	SALARIES & BENEFITS	348,341	644,368	950,678	6,198,613
Expenses	SUPPLIES & SERVICES	143,390	224,289	327,078	1,905,875
Expenses	REPAIRS & MAINTENANCE	17,051	20,218	20,869	280,500
Expenses	STREET LIGHTING	24,048	36,072	48,096	144,287
Expenses	PURCHASED POWER	5,231	2,972,338	5,472,124	18,148,892
Expenses	DEBT SERVICE	-96,129	-96,129	-93,654	2,431,019
Expenses	TRANSFERS OUT	0	0	676,161	6,308,437
Expenses	CONTRA EXPENDITURE	0	0	0	0
Revenues Less Expenses		2,688,575	3,012,465	3,630,457	4,766,588

**Monthly amounts shown are cumulative*

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Airport

At first quarter, Airport has used 15% of its FY 21-22 expenditure budget and has received 8% of its projected revenue for the year.

Table 4 Airport Revenues vs Expenditures

REVENUES/EXPENSES	CATEGORY	July 2021-22 Actual	August 2021-22 Actual	September 2021-22 Actual	2021-22 Budget
Revenues	Revenues Totals	9,531	17,251	53,517	685,571
Revenues	SALES AND SERVICE CHARGES	9,528	17,244	53,509	204,469
Revenues	INTERGOVERNMENTAL	0	0	0	427,675
Revenues	USE OF MONEY AND PROPERTY	3	7	10	46
Revenues	MISCELLANEOUS INCOME	0.01	0.41	-2	53,381
Revenues	TRANSFERS IN	0	0	0	0
Expenses	Expenses Totals	14,021	22,378	41,662	274,497
Expenses	SALARIES & BENEFITS	5,962	12,604	20,937	114,873
Expenses	SUPPLIES & SERVICES	1,309	3,024	5,008	101,822
Expenses	REPAIRS & MAINTENANCE	6,750	6,750	6,750	18,209
Expenses	TRANSFERS OUT	0	0	8,967	39,593
Expenses	CONTRA EXPENDITURE	0	0	0	0
Revenues Less Expenses		-4,490	-5,127	11,855	411,074

**Monthly amounts shown are cumulative*

Transit

At first quarter, Transit has used 21% of its FY 21-22 expenditure budget and has received 2% of its projected revenue for the year.

Table 5 Transit Revenues vs Expenses

REVENUES/EXPENSES	CATEGORY	July 2021-22 Actual	August 2021-22 Actual	September 2021-22 Actual	2021-22 Budget
Revenues	Revenues Totals	5,938	15,332	39,407	2,505,063
Revenues	SALES AND SERVICE CHARGES	5,938	15,332	24,407	129,164
Revenues	INTERGOVERNMENTAL	0	0	0	2,302,369
Revenues	USE OF MONEY AND PROPERTY	0	0	0	213
Revenues	MISCELLANEOUS INCOME	0	0	0	1,026
Revenues	OTHER INCOME	0	0	0	12,291
Revenues	TRANSFERS IN	0	0	15,000	60,000
Expenses	Expenses Totals	87,420	176,634	435,219	2,066,918
Expenses	SALARIES & BENEFITS	82,296	165,520	246,022	1,317,766
Expenses	SUPPLIES & SERVICES	2,069	8,059	10,814	72,566
Expenses	REPAIRS & MAINTENANCE	3,055	3,055	3,055	18,704
Expenses	TRANSFERS OUT	0	0	175,328	657,882
Expenses	CONTRA EXPENDITURE	0	0	0	0
Revenues Less Expenses		-81,482	-161,302	-395,812	438,145

**Monthly amounts shown are cumulative*

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December 14, 2021

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Water

At first quarter, Water has used 15% of its FY 21-22 expenditure budget and has received 25% of its projected revenue for the year.

Table 6 Water Revenues vs Expenses

REVENUES/EXPENSES	CATEGORY	July 2021-22 Actual	August 2021-22 Actual	September 2021-22 Actual	2021-22 Budget
Revenues	Revenues Totals	1,355,150	2,887,771	4,069,140	16,581,042
Revenues	SALES AND SERVICE CHARGES	1,317,574	2,819,145	3,923,656	10,592,867
Revenues	INTERGOVERNMENTAL	8,344	38,980	67,118	29,134
Revenues	USE OF MONEY AND PROPERTY	0	0	0	55,636
Revenues	MISCELLANEOUS INCOME	29,232	29,646	78,366	2,979,122
Revenues	OTHER INCOME	0	0	0	0
Revenues	TRANSFERS IN	0	0	0	2,924,283
Expenses	Expenses Totals	223,293	791,900	1,699,432	11,452,300
Expenses	SALARIES & BENEFITS	138,312	311,808	480,244	2,246,621
Expenses	SUPPLIES & SERVICES	215,757	610,660	838,439	2,109,679
Expenses	REPAIRS & MAINTENANCE	21,484	21,692	21,985	129,423
Expenses	PURCHASED POWER	0	0	0	50,000
Expenses	DEBT SERVICE	-152,260	-152,260	-149,785	1,992,928
Expenses	TRANSFERS OUT	0	0	508,549	4,923,649
Expenses	CONTRA EXPENDITURE	0	0	0	0
Revenues Less Expenses		1,131,857	2,095,871	2,369,708	5,128,742

**Monthly amounts shown are cumulative*

Wastewater

At first quarter Wastewater has used 18% of its FY 21-22 expenditure budget and has received 14% of its projected revenue for the year.

Table 7 Wastewater Revenues vs Expenses

REVENUES/EXPENSES	CATEGORY	July 2021-22 Actual	August 2021-22 Actual	September 2021-22 Actual	2021-22 Budget
Revenues	Revenues Totals	314,612	625,983	998,022	7,108,562
Revenues	SALES AND SERVICE CHARGES	309,551	620,922	932,684	4,015,615
Revenues	USE OF MONEY AND PROPERTY	0	0	0	47,729
Revenues	MISCELLANEOUS INCOME	5,061	5,061	65,338	2,756,198
Revenues	OTHER INCOME	0	0	0	0
Revenues	TRANSFERS IN	0	0	0	289,020
Expenses	Expenses Totals	157,132	296,354	686,066	3,856,407
Expenses	SALARIES & BENEFITS	49,025	108,434	168,192	899,861
Expenses	SUPPLIES & SERVICES	101,921	178,590	260,734	1,474,044
Expenses	REPAIRS & MAINTENANCE	17,586	20,730	28,939	124,876
Expenses	DEBT SERVICE	-11,400	-11,400	-11,400	290,678
Expenses	TRANSFERS OUT	0	0	239,601	1,066,948
Expenses	CONTRA EXPENDITURE	0	0	0	0
Revenues Less Expenses		157,480	329,629	311,956	3,252,155

**Monthly amounts shown are cumulative*

Staff Report: Fiscal Year 2021-22 First Quarter Financial Report

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Refuse

At first quarter, Refuse has used 65% of its FY 21-22 expenditure budget and has received 516% of its projected revenue for the year (Revenue boost due to Waste Management Franchise Agreement)

Table 8 Refuse Revenues vs Expenses

REVENUES/EXPENSES	CATEGORY	July 2021-22 Actual	August 2021-22 Actual	September 2021-22 Actual	2021-22 Budget
Revenues	Revenues Totals	4,737,530	4,738,729	4,742,970	918,350
Revenues	SALES AND SERVICE CHARGES	4,723,490	4,724,689	4,728,931	591,248
Revenues	TAXES	14,039	14,039	14,039	0
Revenues	INTERGOVERNMENTAL	0	0	0	300,000
Revenues	USE OF MONEY AND PROPERTY	0	0	0	2,315
Revenues	MISCELLANEOUS INCOME	0	0	0	24,787
Revenues	TRANSFERS IN	0	0	0	0
Expenses	Expenses Totals	368,719	545,800	622,182	958,717
Expenses	SALARIES & BENEFITS	16,641	36,544	60,924	257,512
Expenses	SUPPLIES & SERVICES	352,078	509,256	537,026	181,037
Expenses	TRANSFERS OUT	0	0	24,232	520,168
Expenses	CONTRA EXPENDITURE	0	0	0	0
Revenues Less Expenses		4,368,811	4,192,928	4,120,789	-40,367

*Monthly amounts shown are cumulative

NEXT STEPS

The Executive team in addition to departmental staff will continue to monitor and report to Council on a quarterly basis in order to adjust revenue projections and authorized expenditures. When considering both the revenue shortfalls and negative expenditures variances, the city is at risk of ending the current fiscal year with a deficit that will negatively impact the following year's available resources. In addition, there is a word of caution to be taken with one-time revenues that may temporarily relieve the budget deficit.

The next step in the budget cycle is to deliver the second quarter FY 21-22 Budget Update and Financial Status Report, mid-year revisions and capital expenditure reviews. The report and revisions are scheduled be brought to the Budget & Finance Committee meeting in February and subsequently to Council for review. The next major budget process is the Biennial Budget for FY 22-23 & FY 23-24 to be presented to Council for review and adoption.

ALTERNATIVES:

1. Receive and file Fiscal Year 2021-22 First Quarter Budget Update and Financial Status Report.

ATTACHMENTS:

1. General Fund/Discretionary Revenue, Expenditures by Department and Fund Type for First Quarter

<https://banningca.gov/DocumentCenter/View/9855/Attachment-1-General-Fund-Revenue-Expenditures-by-Department-and-Fund-Type>

Staff Report: Fiscal Year 2021-22 First Quarter Financial Report

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2. Fund List

<https://banningca.gov/DocumentCenter/View/9854/Attachment-2--Fund-List>

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
Patrick Safari, Associate Engineer

MEETING DATE: December 14, 2021

SUBJECT: Resolution 2021-129, Rejecting All Bids for Project No. 2020-13
"Collection Site Improvements"

RECOMMENDATION:

Staff recommends that the City Council of Banning adopt Resolution 2021-129, rejecting all bids for Project No. 2020-13, "Collection Site Improvements".

BACKGROUND:

The City of Banning owns and operates the dump site located at the east end of Charles Street next to the City's Wastewater Treatment Plant located at 2242 E. Charles Street. The dump site is used as a transfer station for the purpose of separating different types of materials generated during the City's various operations as well as the collection of illegal dumping.

On February 17, 2021, the City issued Purchase Order No.030778 to HP Engineering, Inc. in the amount of \$3,900 for the preparation of a grading plan and cost estimate.

On September 29, 2021, staff released an invitation for bids on ProcureNow website for construction services. The bids were opened on November 1, 2021. The City received six (6) bids ranging in price from \$406,691.80 to \$545,000.

JUSTIFICATION:

The lowest bid of \$406,691.80 far exceeds the project budget of \$250,000. Staff plans to value engineer the design to reduce the cost and also increase the budget amount during the mid-year budget adjustments and re-advertise the project.

FISCAL IMPACT:

The city will incur cost related to staff time and publications.

December 14, 2021

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ALTERNATIVES:

1. Approve the resolution as presented.
2. Approve with modifications.
3. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2021-129

<https://banningca.gov/DocumentCenter/View/9873/Attachment-1---Resolution-2021-129>

2. Submitted Bid Schedules

<https://banningca.gov/DocumentCenter/View/9872/Attachment-2---Bids-Summary>

Approved by:



Douglas Schulze
City Manager



**CITY OF BANNING
STAFF COUNCIL**

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Suzanne Cook, Finance Director

MEETING DATE: December 14, 2021

SUBJECT: Approving Resolution 2021-126 for Amendment No. 1 to the Agreement (C00689) for Property Tax Management, Audit and Information Services by and Between City of Banning and HdL Coren & Cone

RECOMMENDATION:

Staff recommend City Council:

1. Adopt Resolution No. 2021-126, approving Amendment No. 1 to the agreement between the City of Banning and HdL Coren & Cone for Property Tax Management, Audit and Information Services extend the Agreement for an additional one-year term, ending on December 22, 2022, and the increase in compensation for services for that term not to exceed Fourteen Thousand Two Hundred and Twenty-Five Dollars (\$14,225.00), for a new contract term not to exceed Twenty-Eight Thousand Four Hundred Fifty Dollars (\$28,450.00).
2. Authorize the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to this amendment.
3. Authorize the City Manager to execute Amendment No. 1 to the agreement.

BACKGROUND:

On December 23, 2020, the City entered into an agreement with HdL Coren & Cone to provide property tax management, audit and information services including reports and analytical services, identification and correction of errors, quarterly reports, property tax application and database, and successor agency services as detailed in the scope of services in the agreement (Exhibit A). The current agreement is set to expire on December 22, 2021 and city staff recommends extending the contract to in order to continue receive these services.

JUSTIFICATION:

The reports provided by HdL Coren & Cone contain useful information for the City detailing out property and revenue trends for the entire City and for custom defined geographic areas. The reports can be used for budgeting purposes, planning, economic development and public information. Details of services provided can be found in the scope of services section of the agreement.

December 14, 2021

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FISCAL IMPACT:

The annual fiscal cost is \$14,225 and is covered by the current FY 21-22 budget in fiscal services department account number 001-1900-412.33-11 Professional Services.

ALTERNATIVES:

1. Approve the recommended actions.
2. The City Council may choose to reject the recommended actions and provide alternative options.

ATTACHMENTS:

1. Resolution 2021-126
<https://banningca.gov/DocumentCenter/View/9860/Attachment-1--Resolution-2021-126>
2. Amendment No. 1 to the Agreement with HdL Coren & Cone
<https://banningca.gov/DocumentCenter/View/9858/Attachment-2--Amendment-No1-C00689-Property-Tax-Services---HdL-Coren-and-Cone>
3. Original Executed Agreement with HdL Coren & Cone
https://banningca.gov/DocumentCenter/View/9859/Attachment-3--C00689_HDL_COREN_AND_CONE

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Laurie Sampson, Executive Assistant
Kevin G. Ennis, City Attorney

MEETING DATE: December 14, 2021

SUBJECT: Second Public Hearing to Receive Comments and Input on the Process for the Redrawing of Election District Boundaries; the Report of the 2020 Census Demographic Data Specific to the City of Banning, Demonstration of Online Mapping Tools; and Receive City Council Direction

SUMMARY:

The Public Hearing scheduled for December 14, 2021, represents the second in a series of four public hearings required under the California Elections Code Section 21600 *et seq.* as part of the redistricting process undertaken following each decennial federal Census. The first public hearing was held November 9, 2021, where the City Council received a presentation from the City Attorney, Kevin G. Ennis, on the requirements under the federal Voting Rights Act and the California Voting Rights Act (CVRA); received a report on the 2020 Census results relative to Banning's population and demographic data; and received information on the mapping tools available to the public for participation in the redistricting mapping process. The second public hearing will recap the redistricting requirements and criteria, review Banning's 2020 Census results, and will include a demonstration of the online mapping tools. Staff also seeks any input and direction from the City Council on the parameters to consider for potential maps to be produced by staff as part of the redistricting process. Any maps produced by staff will be in addition to maps provided by residents.

BACKGROUND:

Transition to District-Based Elections

The City of Banning completed the process set forth in the California Voting Rights Act (CVRA) in 2016 and transitioned from a system of "at-large" elections to a system of "district-based" elections for electing Councilmembers. The threat of litigation claimed the City's at-large election system was racially polarized, resulting in minority vote dilution in violation of the CVRA. The intent of having district-based elections was to create majority minority districts and allow individuals from protected classes an opportunity to be elected

bremain in compliance with the CVRA. Other background information regarding the CVRA and the procedures which led to convert to a district-based election process for electing City Councilmembers is available on the City's website at: <http://banning.ca.us/470/2016-City-Council-Elections-by-Districts> including the staff reports, videos and other relevant information for the prior meetings and public hearings from June 6, 2016, to June 7, 2016.

On June 28, 2016, the City Council adopted Ordinance No. 1497 transitioning the City's manner of election from an "at-large" system where all voters regardless of residence location within the city may vote for all Councilmembers to a "district" based system where only voters residing within a geographical district may vote for one Councilmember representing that district. Ordinance No. 1497 established City Council district boundaries pursuant to a map entitled "Smith Map 1", which was incorporated into Ordinance No. 1497 as the Exhibit A Council District Map. Ordinance No. 1497 also established district-based election sequencing with Districts 1, 2 and 3 elected in 2016 and every four years thereafter, and Districts 4 and 5 elected in 2018 and every four years thereafter. The first district-based election was held on November 8, 2016. The process of transitioning to district elections was facilitated by National Demographics Corporation, Inc. (NDC) who provided demographic information, public outreach, and assistance with drafting maps for the formation of proposed districts. The population of the City of Banning in 2010 was 29,603. For the purpose of districting, the population in each district is approximately 5,920.

Requirement for Redistricting and Redistricting Deadline

Every 10 years, jurisdictions that have district-based elections are required to review district boundaries based on the results of the decennial Census to ensure equal representation based on population growth and to adjust district boundaries, if necessary, to reflect changes in population.

Historically, Census results have been released by the end of March in the year following the Census; however, 2020 results were not provided to states until August 12, 2021, due to Census delays caused by the COVID-19 pandemic. On September 27, 2021, California's Statewide Database released official population data for local governments, which is based on federal 2020 Census data with adjustments for incarcerated populations. The official 2020 population for the City of Banning is 29,505. For the purposes of districting, each of the four council districts must have approximately 5,901 people.

California Elections Code Section 21602 *et seq.* establishes timeframes for completion of redistricting following the release of Census results. The City's next regularly scheduled election will be held on November 8, 2022. Section 21602(a)(3) of the Elections Code applies to cities conducting its next regular election on or after July 1, 2022 and reads: "For redistricting occurring before 2031 and where a city does not have a regular election occurring after January 1, 2022 and before July 1, 2022, the boundaries of the council districts shall be adopted by the council not later than 205 days before the city's next regular election occurring on or after July 1, 2022." Based on the provisions of the

Elections Code, the City must adopt Council Districts on or before April 17, 2022, which is 205 days prior to the next City Council election on November 8, 2022.

To meet the timeframes outlined in the Elections Code, the City established the following public hearing schedule to complete the redistricting process, and provides a small buffer should additional time be required to adopt a population-balanced map:

<i>November 9, 2021</i>	First Public Hearing at the time certain of 6:00 p.m. (Tuesday evening).
<i>December 14, 2021</i>	Second Public Hearing at the time certain of 6:00 p.m. (Tuesday evening).
<i>January 11, 2022</i>	Third Public Hearing at the time certain of 6:00 p.m. (Tuesday evening).
<i>January 25, 2022</i>	Fourth Public Hearing at the time certain of 6:00 p.m. (Tuesday evening).
<i>April 17, 2022</i>	City of Banning's final deadline for completion of the redistricting process.

This evening's public hearing represents the second in a series of public hearings required under the Fair Maps Act in order to complete the redistricting process for the City. The goals of this public hearing include: 1) receiving a presentation from the City Attorney on the requirements of the Fair Maps Act, 2) receiving an overview of the 2020 Census results, 3) receiving information and demonstration of the mapping tools available to the public to participate in the redistricting process, 4) conducting the second public hearing to receive testimony from residents; and 5) receive direction from the City Council on potential map development to achieve population-balanced alternatives for consideration.

DISCUSSION:

The first redistricting public hearing was held on November 9, 2021, and provided an overview of the redistricting requirements and process and included an overview of the federal Voting Rights Act and the California Voting Rights Act (CVRA) criteria; presentation of a demographic summary of the current Council districts based on the 2020 Census population data; discussion of the various mapping tools available for the public and interested parties to use; and provided the opportunity for the public testimony and input on the redistricting process for the redrawing of Council District boundaries.

2020 Census Results

At the November 9, 2021, hearing, the 2020 Census results were presented including population numbers and demographic breakdowns as well as the "ideal population" number for Council districts. The total population for the City of Banning based on the

2020 Census is 29,505. The ideal population is calculated by dividing the total population by the number of districts. When divided against the total population, the new ideal population is 5,901 for each district ($29,505/5 = 5,901$).

It should be noted that the Fair Maps Act requires that “council districts shall be substantially equal in population as required by the United States Constitution” (Elections Code 21601(a)). Under federal law, precisely equal population is not required for local government districts, and federal courts have indicated that total population deviation under 10% is legally permissible, as long as the deviation is justified for the purposes of legitimate redistricting criteria under state law.

The new ideal population number results in a “population imbalance” in Council District 2, 4 and 5; the deviations from the ideal population are shown in the table below:

Council District	1	2	3	4	5	Total
2020 Census	6,114	5,986	5,937	5,705	5,763	29,505
Deviation from Ideal	213	85	36	-196	-138	409
% Deviation	4.0%	1.0%	1.0%	-3.0%	-2.0%	7%

A full breakdown of the demographic date by district is provided as an attachment to the staff report.

In that the City of Banning Council District population numbers based on the 2020 Census results exceed the ideal population percentages by more than 10%, adjustments to the existing districts are required to achieve a compliant, population balanced Council District map.

Fair Maps Act- Redistricting Requirements and Criteria

In addition to requiring that council districts be substantially equal in population and a minimum of four public hearings be held to enable interested parties to provide comments and input on the drawing of district maps as part of the redistricting process, the Fair Maps Act also provides criteria that must be adhered to when considering and adopting Council district boundaries. Elections code Sections 21601(b) and (c) include the following criteria:

(b) The council shall adopt council district boundaries that comply with the United States Constitution, the California Constitution, and the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.); and

(1) The council shall adopt district boundaries using the following criteria as set forth in the following order of priority:

(1) To the extent practicable, council districts shall be **geographically contiguous**. Areas that meet only at the points of adjoining corners are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry

service are not contiguous.

- (2) To the extent practicable, the **geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes its division.** A “community of interest” is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest do not include relationships with political parties, incumbents, or political candidates.
- (3) Council district boundaries should **be easily identifiable and understandable by residents.** To the extent practicable, council districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the city.
- (4) To the extent practicable, and where it does not conflict with the preceding criteria in this subdivision, council districts shall be drawn to encourage **geographical compactness** in a manner that nearby areas of population are not bypassed in favor of more distant populations.”

Additional possible features defining “communities of interest” might include, but be not limited to: 1) school district boundaries; 2) natural division lines such as major roads, hills, or highways; 3) neighborhood landmarks or areas around parks; 4) legislative/election concerns, common issues or neighborhood activities; 5) shared demographic characteristics, including but not limited to: similar levels of income, education, language spoken at home, limited English speaking households, single-family and multi-family housing areas, etc.

Mapping Tools and Public Participation

The redistricting process is intended to provide interested parties with a means to offer public input through testimony during hearings, and to actively participate in the drawing of district maps. There are two ways citizens can prepare and submit a map, either via paper or electronically, and both of these tools can be accessed at

For those with technology accessibility or other technical issues, a paper map can be printed and marked up with boundaries and district numbers, with each district including approximately equal populations within 10% of the ideal population of 5,901. More technological users may wish to access the online mapping tool link on the districting webpage and submit a map electronically.

All maps submitted, either in paper or electronically, will be published on the City’s Districting webpage and will be provided to the City Council for consideration at the third public hearing scheduled for January 11, 2022.

FISCAL IMPACT:

The costs to conduct the redistricting process, including costs for advertising for a series of four public hearings, bilingual translation costs for hearing notices and outreach communications, bilingual translator meeting attendance, and City Attorney costs will be paid from account 001-1500-412.33-11. To date, these services have totaled \$1,812.42.

ATTACHMENTS:

1. 2020 Census Results applied to City Council Districts
<https://banningca.gov/DocumentCenter/View/9800/Att-1-2020-Census-Data>
2. Staff-Prepared Proposed Draft Map #1
<https://banningca.gov/DocumentCenter/View/9805/Att-2-Dicennial-Districting---DRAFT-MAP-1>
3. Draft Map #1 Map Data (from 2020 Census)
<https://banningca.gov/DocumentCenter/View/9797/Att-3-Draft-Map-Data>
4. Draft Map #1 Boundary Description
<https://banningca.gov/DocumentCenter/View/9801/Att-4-2020-Draft-Map-Detailed-District-Boundaries>
5. Public Hearing Notice – English
https://banningca.gov/DocumentCenter/View/9798/Att-4-2021-12-03_PHN-Proof-of-Publication_English
6. Public Hearing Notice – Spanish
https://banningca.gov/DocumentCenter/View/9799/Att-5-2021-12-03_PHN-Proof-of-Publication_Spanish

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Tom Miller, Electric Utility Director

MEETING DATE: December 14, 2021

SUBJECT: Resolution 2021-124, Approving Revision to the Small Commercial Multi-Phase Tariff (Electric Rate)

RECOMMENDATION:

Staff recommends adopting Resolution 2021-124 revising the Small Commercial Multi-Phase Tariff to accurately reflect the intended rate change approved by City Council in Resolution 2021-102.

BACKGROUND:

On October 26th, 2021, City Council approved Resolution 2021-102 adopting rate changes including a class of service known as Small Commercial Multi-Phase (SC-1). In the SC-1 Tariff, there was a misunderstanding of one of the billing determinates and the unit of measure was incorrectly stated. The revised tariff changes the billing unit from a demand charge with a billing unit of kW/month to an additional per meter per month charge billing unit.

\$3.97/kW/month (incorrect) to \$3.97/meter/month (correct)

JUSTIFICATION:

By recommendation of the city attorney, we are noticing for a public hearing and requesting the adoption of a separate resolution so there is an appropriate administrative record. Making this revision will accurately represent the intended revenue requirement for the class of service of Small Commercial Multi-Phase.

FISCAL IMPACT:

None.

ALTERNATIVES:

None.

December 14, 2021

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

ATTACHMENTS:

1. Resolution 2021-124 with Exhibit A, Revised Small Commercial Multi-Phase Tariff
<https://banningca.gov/DocumentCenter/View/9793/Resolution-2021-124-Small-Commercial-Multi-Phase-rev>
2. Notice of Public Hearing
<https://banningca.gov/DocumentCenter/View/9794/Public-Hearing-Notice---Resolution-2021-124>

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: December 14, 2021

SUBJECT: Consider Ordinance 1580 Approving Zone Text Amendment 21-97503, amending Chapters 5.33, 17.12, and 17.54 of the Banning Municipal Code, Eliminating the numeric cap on the number of cannabis retailers permitted in the City, allowing for the operation of cannabis retailers in the General Commercial Zone, allowing cannabis distribution and manufacturing in the Business Park Zone, making additional conforming amendments to regulations pertaining to cannabis retailers, and making a determination that the Zone Text Amendment is exempt from review under CEQA pursuant to CEQA Guidelines Section 15061 (b)(3)

RECOMMENDATION:

That the City Council (1) Make a determination, pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines that the project is exempt from CEQA; (2) Introduce City Council Ordinance 1580 for first reading; and (3) Waive further reading of the ordinance.

BACKGROUND:

On July 10, 2018, the City Council adopted Ordinance 1523, which established a conditional use permit process for cannabis cultivation, manufacturing level 1, and testing laboratory facilities within the Industrial zoning district. The City Council also adopted Ordinance 1524, which added Chapter 5.35 (Cannabis Regulatory Permits) to the Banning Municipal Code to establish a procedure for issuance of cannabis regulatory permits to cannabis cultivation, manufacturing level 1, and testing laboratory facilities.

In addition to Ordinance 1523, the City Council also adopted Ordinances 1527 and 1528, placing Measures N and O on the November 2018 General Election Ballot. Measure N imposes 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 imposes a tax on commercial cannabis cultivation, manufacturing and

testing laboratories at 10% of the gross receipts of the business. Measure O imposes a tax on cannabis retailers at 10% of gross receipts of the business. Both measures were approved by the voters.

On November 13, 2018, the City Council also adopted Ordinances 1531 and 1532, which authorized a limited number of cannabis retailers to develop within the City subject to conditional use permit (CUP) approvals and established a regulatory permit process.

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

On July 1, 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. On 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.

On 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.

On September 28, 2021, the City Council adopted Ordinance 1577 allowing cannabis microbusinesses to operate in the Industrial and Business Park Zones with a conditional use permit. At that meeting the Council directed staff to prepare updates to the City's cannabis retailer program to eliminate the cap on cannabis retailers and allow cannabis retailers to operate in the General Commercial (GC) Zone. Additionally, the Council directed staff to allow distributors and manufacturers in the Business Park (BP) Zone.

At the meeting of November 3, 2021, the Planning Commission adopted Resolution 2021-18 recommending the City Council approve Zoning Text Amendment 21-97503 with the following recommended revisions to the proposed ordinance:

- Not allow cannabis retailers in the General Commercial Zone.
- Not allow cannabis distributors and manufacturers in the Business Park Zone.

Proposed amendments to the Banning Municipal Code

The draft Ordinance 1580 (Attachment 1) reflects the Council's policy direction. Accordingly, Ordinance 1580 makes the following amendments to the Municipal Code:

1. Chapter 5.33, Cannabis Retailer Regulatory Permits: remove the cap on retailers, allowing cannabis retailers in the General Commercial (GC) Zone, and remove the requirement for a lottery system for to approve additional cannabis retailers.
2. Chapter 17.12, Commercial and Industrial Districts: amend Table 17.12.020 to add cannabis manufacturing and distribution as conditionally permitted uses in the

Business Park (BP) zoning district and add cannabis retailer as a conditionally permitted use in the General Commercial (GC) zoning district.

3. Chapter 17.54, Cannabis Retail Conditional Use Permits: amend Section 17.54.010, Definitions, to revise the definition of "Bureau;" amend Section 17.54.080, Separation requirements and other limitations, by removing the provisions of Sub-Section "A" pertaining to the numerical cap on cannabis retailers.

ENVIRONMENTAL DETERMINATION:

Planning Division staff has determined that this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. Adoption of this Ordinance is covered by the commonsense exemption in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Here, the Ordinance eliminates the numeric cap placed on the number of cannabis retailers allowed to operate in the city, currently limited to a ratio of one retailer for every 10,000 residents and therefore allowing a current maximum of three retailers to operate in the City.

Cannabis retailers are conditionally permitted uses in the Highway Serving Commercial (H-SC) zoning district. This Ordinance will allow cannabis retailers to also operate in the General Commercial zone which already allows for uses akin to cannabis retailers such as general retail outlets, neighborhood serving retail markets, and drug stores. The Ordinance will also permit cannabis manufacturing and cannabis distribution uses to operate in the Business Park zone. These uses are already conditionally permitted uses in the Business Park zone as cannabis microbusinesses can be comprised of cannabis manufacturing, cultivation, distribution, and retail uses. Moreover, further projects subject to this Ordinance will require a discretionary permit and each individual project will be analyzed at the appropriate time in accordance with CEQA.

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.

PUBLIC COMMUNICATION:

The proposed Ordinance and Municipal Code Amendment were advertised in the Record Gazette newspaper on November 19, 2021. As of the date of this report, staff has not received any written comments on the project.

JUSTIFICATION:

It is in the City's financial interest and in the public interest that the City act to remove constraints on cannabis businesses desiring to operate in the City as these businesses will pay local taxes and generate revenue for the City's general fund.

FISCAL IMPACT:

The adoption of this Ordinance could have a positive effect on the City's general fund by the collection of tax generated by additional cannabis businesses.

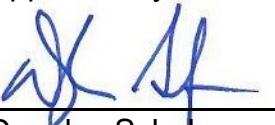
ALTERNATIVES:

1. Approve the Ordinance as written.
2. Approve the Ordinance as revised to reflect the Planning Commission's recommendations.
3. Direct Staff to make Council recommended changes.

ATTACHMENTS:

1. Ordinance 1580
<https://banningca.gov/DocumentCenter/View/9836/Att-1-Draft-Ordinance-1580>
2. Planning Commission Resolution 2021-18
https://banningca.gov/DocumentCenter/View/9835/Att-2-Resolution-2021-18_adopted-1132021
3. Planning Commission recommended version of Ordinance 1580
https://banningca.gov/DocumentCenter/View/9833/Att-3-Ordinance-1580_PC-version-unformatted
4. Zoning Map
<https://banningca.gov/DocumentCenter/View/9834/Att-4-Ordinance-1580-zoning-map>
5. Public Hearing Notice – Proof of Publication
<https://banningca.gov/DocumentCenter/View/9837/Att-5-Proof-of-Publication-ZTA-21-97503>
6. Notice of Exemption
<https://banningca.gov/DocumentCenter/View/9837/Att-5-Proof-of-Publication-ZTA-21-97503>

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
Kevin G. Ennis, City Attorney

MEETING DATE: December 14, 2021

SUBJECT: Discussion and City Council Consideration Authorizing the City Manager to Enter into a New Exclusive Negotiation Agreement and a Preliminary Term Sheet with Grandave Capital, LLC for City-owned Property located at 200 S. Hathaway Street

RECOMMENDATION:

It is recommended that the City Council discuss and take one or both of the following actions:

- A. Consider, and if appropriate, approve a new Exclusive Negotiation Agreement (ENA) with Grandave Capital, LLC for City-owned Property located at 200 S. Hathaway Street, known as Banning Municipal Airport. This action would act to extend the time that the City would be exclusively negotiating with Grandave from the current expiring term of December 31, 2021 included in the current and second ENA. The new ENA would take effect on January 1, 2022 and would terminate on June 30th 2022; and
- B. Consider, and if appropriate, approve a Preliminary Term Sheet, as an Exhibit to the ENA, providing basic terms for the continued negotiation of various entitlements and agreements, while reserving City Council discretion in final documents, pending public hearings and satisfaction with CEQA.

BACKGROUND:

Representatives from Grandave Capital, LLC approached City staff in September of 2020 regarding a proposed development of City-owned property at 200 S. Hathaway Street, which includes Assessor Parcel Numbers 532-130-011, 012, and 018. This property is commonly known as Banning Municipal Airport. The proposed development would allow the airport to continue operating and potentially improve the condition and amenities for airport users while developing a movie studio project on airport grounds.

A. New Exclusive Negotiating Agreement

A first Exclusive Negotiating Agreement (ENA) was entered into by the Parties on October 27, 2020. That first ENA expired on April 30, 2021. A second Exclusive Negotiated Agreement was authorized at the April 27, 2021 City Council meeting and that agreement expires December 31, 2021. While modest progress by Grandave has been made, the process is taking longer than anticipated and more time is required by Grandave to complete the necessary and required multiple tasks, items, entitlements, agreements and approvals for the Project.

The new (the third) ENA is modeled after the April 27, 2021 ENA but with modifications that change the dates and status of deliverables. Most weeks, Grandave representatives and City staff have been conducting weekly conference calls during 2021. The City Council should consider if Staff and City should continue to dedicate the time and monetary resources required to move the project forward. It is important to note that to date, and after one year, neither Grandave Capital nor Grandave's representative have complied with paragraph 6 of the ENA nor any of the provisions Nos. 1-8 set forth in Attachment No. 1. of said ENA. It is also important to note that one of the purposes of an ENA is to preclude the City from negotiating with any other potential developer during the term of the ENA so that the developer that is the party to the ENA will be given an opportunity to have its entitlement applications considered by the City first prior to the City negotiating with other developers for competing projects.

B. Term Sheet

In addition to the ENA, the City Council should also consider approving a proposed Preliminary Term Sheet by which the City and Grandave provide general terms for what would be included in various entitlements, agreements and other approvals that would be required to approve the proposed movie studio project and related uses.

The Proposed Term Sheet, attached hereto as Attachment 4, provides a framework for the elements of the project and the entitlements, agreements and approvals required to approve the project. Some of the material provisions of the Term Sheet are as follows:

1. **Property.** The property that is subject to the proposal includes the Banning Municipal Airport and certain adjacent parcels owned by the City to the West, North and Southeast.
2. **Entitlements Required.** The City would process applications by Grandave for a General Plan Amendment, Specific Plan, Zoning Code Text Amendment to incorporate Specific Plan into the Zoning Code, Airport Master Plan Amendment, Major Site Plan Review ("Design Review"), Ground Lease Agreement, and a Development Agreement (depending on which terms and provisions from entitlements warrant inclusion in a Development Agreement and not contained in the Ground Lease).

3. Environmental Review under CEQA/NEPA. The City would need to consider and approve any required environmental document prior to approving any entitlement or agreement for the Project.
4. Grandave must submit a formal development application to begin this process, pay all costs for entitlement processing and CEQA/NEPA review, and enter into the City's standard Entitlement Processing Deposit Agreement.
5. Project. The proposal is for a film production studio and related facilities, including accessory uses to a motion picture studio. No . Accessory uses to a motion picture studio. No subleasing or assignment to a warehouse or logistic use would be allowed.
6. Operation of the Banning Municipal Airport. Grandave to assume responsibility for management of all airport operations and airport operating budget, and would sublease/assign rights and obligations for General aviation and fixed operations.
7. Airport and Project Improvements. Various physical and operational improvements to airport and to public infrastructure around the airport would be negotiated and included in the entitlements and agreements based the requirements of the FAA, the City and to implement required mitigation of environmental impacts.
8. Ground Lease. The City would negotiate a lease of the Airport and City-owned adjacent property for up to a 50 year term for the approved uses at fair market value. Other standard ground lease terms would be included, such as conditions precedent to the effective date of the lease, required improvements, developer's responsibility for airport operations, subleasing and assignment, and remedies for default.
9. Development Agreement. Optional and based on whether certain terms are not included in Ground Lease.

The Term Sheet further provides that both Parties recognize and intend that the Term Sheet cannot and will not create any binding contractual obligations for either Party or to commit either Party to any course of action beyond their mutual obligation to act in good faith while negotiating the terms of any Project agreements and preparing, submitting, and reviewing all necessary governmental approvals and entitlements. Neither the inclusion nor omission of any particular term or condition from the Preliminary Term Sheet shall bind either Party with respect the inclusion or omission of such term in any final Project agreement or approval, if any.

A project of this type also requires approval of applications for multiple governmental approvals and entitlements from the City and other governmental agencies, and it is expressly contemplated by the Parties that final approval of all entitlements must be left to the sound discretion of such agencies, including the City Council. Both Parties recognize and intend that the City Council must retain the absolute sole discretion to determine whether any legislative or regulatory approval is allowed or required by law or in the best interest of the City, including but not limited to whether approval of any binding agreements between the Parties should be modified, conditioned, or even disapproved

as a result of information produced through the environmental review process required by the California Environmental Quality Act and any other public review and hearing processes.

JUSTIFICATION:

The Exclusive Negotiated Agreement is necessary to allow Grandave to obtain project financing and move forward with due diligence and the entitlement process. The City can terminate the ENA with an appropriate 30 days' notice to the developer in the event of insufficient progress. Airport operations will not be impacted because of the ENA. In addition, the proposed development could potentially bring a number of quality jobs to Banning as well as generate modest revenue for the City.

FISCAL IMPACT:

The ENA and Term Sheet require Grandave to deposit funds to be drawn down as expenses are incurred by the City, which has not occurred to date. Those funds should be replenished as needed throughout the remaining entitlement process. The City Council should also consider the continued cost of Staff's time and the limited budgetary resources of the City. It is recommended at a minimum Grandave reimburse the City for its expenses to date as a condition of approving a second extension.

ALTERNATIVES:

1. Approve extension of Exclusive Negotiation Agreement with Grandave Capital LLC until June 30th 2022 without modifications, and with the Term Sheet attached as an exhibit to the ENA.
2. Approve extension of Exclusive Negotiation Agreement with Grandave Capital LLC until June 30th 2022 requiring re-imbursement of all city expenses to date and with the Term Sheet attached as an Exhibit to the ENA.
3. Take either action under item 1 or 2 without approving the Term Sheet.
4. Reject extension of Exclusive Negotiation Agreement with Grandave Capital LLC and not approve the Term Sheet.

ATTACHMENTS:

1. Proposed Extension to Exclusive Negotiating Agreement with Grandave Capital LLC
https://banningca.gov/DocumentCenter/View/9822/Att-1-ENA---Proposed-Grandave-Capital_January-2022
2. First Extension to ENA with Grandave Capital LLC executed in June 2021
https://banningca.gov/DocumentCenter/View/9820/Att-2-ENA---Grandave-Capital_June-2021
3. Original ENA with Grandave Capital LLC executed in October 2020
https://banningca.gov/DocumentCenter/View/9821/Att-3-ENA---Grandave-Capital_October-2020

Staff Report: Extension of ENA and Approval of a Term Sheet with Grandave

December 14, 2021

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4. Preliminary Term Sheet for the Ground Lease and Entitlements for Banning Municipal Airport Grandave Studio Project

<https://banningca.gov/DocumentCenter/View/9887/Att-4-Term-Sheet---December-14-2021>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Ralph Wright, Parks and Recreation Director

MEETING DATE: December 14, 2021

SUBJECT: Resolution 2021-127 approving the License Agreement with Kids Cures Foundation for use of City-Owned property located at 2041 W Nicolet Street in Banning, commonly known as the Armory Building

RECOMMENDATION:

The City Council adopt Resolution 2021-127 approving and authorizing the City Manager to execute the license agreement with Kids Cures Foundation for use of designated warehouse space in the Armory building.

BACKGROUND:

The city owns a building located at 2041 W Nicolet Street known as the Armory building. The property was leased to the State of California until January of 2020.

At the October 12, 2021 meeting of the City Council, the Council held a discussion on potential uses of the Armory Building. One option discussed was entering into a license agreement with Kids Cures Foundation to use the facility to support their feeding program in Banning as their current storage facility was no longer going to be available. The consensus of the Council was to review options to support Kids Cures Foundation and their use of the Armory Building.

As part of those discussions, it was determined that one large storage room, located on the northwest corner of the building and an adjacent space, approximately 22' x 40' on the main warehouse floor would be sufficient for Kids Cures to adequately store their food and supplies for their monthly food distribution program. Kids Cures will install fencing to secure their product on the main warehouse floor area.

The license agreement is for a three-year initial term, with the ability to extend the agreement if mutually agreed upon and the agreement requires Kids Cures Foundation to indemnify the City of Banning and continue to maintain in full force the required insurance for use of the premises and their operations.

December 14, 2021

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Kids Cures Foundation is a nonprofit 501 ©(3) corporation and the annual rent for the license will be \$1.00. Additionally, Kids Cures shall pay a portion of the electricity costs for the building of \$100.00 per month. Based on electric consumption in the building over the last twelve months and taking into consideration the Banning Electric utilities recently adopted rate changes, the average monthly electricity charges are estimated to be \$180.00 to \$200.00. The license agreement allows for a change to the monthly electric fee if the City enters into subsequent license agreements for use of the shared building space during the term of the agreement.

JUSTIFICATION:

Kids Cures Foundation has been serving the City of Banning for many years with monthly food distribution events taking place in the Community Center Parking Lot, generally, on the 4th Saturday of the month. Up to 300 families in need are provided with food and supplies each month. With the pending loss of their current storage facility, Kids Cures was looking at potentially shutting down their local program in the upcoming year. Additionally, with the proposed license agreement to Kids Cures Foundation in support of their feeding program, additional opportunities for grant funding to improve the facility may become available over the term of the license agreement to aid with needed improvements to the facility.

FISCAL IMPACT:

In the near term, there are no formalized planned uses of the building. As part of the license agreement, Kids Cures Foundation will pay for their share of the electric costs in the building.

ALTERNATIVES:

1. Approve Resolution 2021-127 with modifications.
2. Do not adopt Resolution 2021-127 and provide alternative direction.

ATTACHMENTS:

1. Resolution 2021-127
<https://banningca.gov/DocumentCenter/View/9857/Att-1-Resolution-2021-127>
2. Draft License Agreement between Kids Cures Foundation and the City of Banning
<https://banningca.gov/DocumentCenter/View/9856/Att-2-License-Agreement---KidsCures>

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: December 14, 2021

SUBJECT: Resolution 2021-123, Authorizing the Use of One-Time Funding from the Settlement Agreement with Tri-Pointe Homes for the Purchase of Seven (7) Police Vehicles to Include Upfitting, In-Car Computers, Police Radio, Graphics, and Tinting in the Amount of \$505,190.00

RECOMMENDATION:

Staff recommend City Council approve Resolution 2021-123, authorizing the purchase of seven (7) police SUV's using the funding from the settlement agreement with Tri-pointe Homes, and authorize the City Manager or designee to modify the fiscal year 2021-22 budget to appropriate the funds to account number 001-2200-421-90-52 in the amount of \$505,190.

BACKGROUND:

The Council has approved additional officers on the Banning Police Department. With the addition of the three (3) School Resource Officer (SRO) positions additional vehicles will be required. Seven (7) vehicles will account for the three officers along with replacement for two patrol vehicles and two detective vehicles.

JUSTIFICATION:

The requested vehicles will be utilized by patrol officers and detectives on a daily basis as they patrol the City of Banning and handle various calls for service.

FISCAL IMPACT:

This would be a one-time purchase of the vehicles. The following quotes make up the total of the requested funds:

1. Vehicles based on quote from Fritt's Ford using the County Pricing (Piggyback):
 - a. Black and White Patrol Vehicle (2022 Ford SUV): \$43,074.10
 - b. Solid Black Detective Vehicle (2022 Ford SUV): \$42,265.98

2. Vehicle Upfitting based on quote from Innovative using County Pricing (Piggyback):
 - a. Price for upfitting a patrol vehicle (detective vehicle slightly less): \$15,654.36
3. Vehicle in-car radio based on quote from Motorola for APX8500: \$7,639.36
4. Vehicle in-car Computer quote from Golden Star Technology: \$5,140.50 per vehicle
5. Vehicle Graphics from Graphix (patrol vehicle) detective vehicle would not require graphics: \$864.54 per vehicle.
6. Tinting for all vehicles from Black Market Window Tint: \$275.00 per vehicle.

ITEM	Cost per Item	Extended Cost -	Extended Cost -
		PATROL	DETECTIVE
<i>B/W</i>	\$ 43,074.10	\$ 215,370.50	\$ -
<i>All Black</i>	\$ 42,265.98	\$ -	\$ 84,531.96
<i>Upfit</i>	\$ 15,654.36	\$ 78,271.80	\$ 31,308.72
<i>Radio</i>	\$ 7,639.36	\$ 38,196.80	\$ 15,278.72
<i>Graphics</i>	\$ 864.54	\$ 4,322.70	\$ -
<i>Tinting</i>	\$ 275.00	\$ 1,375.00	\$ 550.00
<i>Computer</i>	\$ 5,140.50	\$ 25,702.50	\$ 10,281.00
SUB-TOTAL	\$ 363,239.30		\$ 141,950.40
GRAND TOTAL		\$505,189.70	

ALTERNATIVES:

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

ATTACHMENTS:

1. Resolution 2021-123
<https://banningca.gov/DocumentCenter/View/9777/Att-1-Resolution-2021-123-Police-Vehicle-purchases>
2. Quote from Fritt's Ford
<https://banningca.gov/DocumentCenter/View/9778/Att-2-Fritts-Ford-Quote>
3. Quote from Innovative
https://banningca.gov/DocumentCenter/View/9779/Att-3-Est_9041_from_IDSMP_DBA_22952
4. Quote from Motorola (via Riverside County Sheriff's Office)
<https://banningca.gov/DocumentCenter/View/9780/Att-4-APX-8500-Mobile>

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5. Quote from Golden Star Technology on Computers

https://banningca.gov/DocumentCenter/View/9774/Att-5-Golden_Sta104074v16

6. Quote from Grafix Systems

https://banningca.gov/DocumentCenter/View/9775/Att-6-Est_2948_from_Grafix_Systems_796

7. Quote for Black Market WindowTint

<https://banningca.gov/DocumentCenter/View/9776/Att-7-Quote-from-Black-Market-Tint>

Approved by:



Douglas Schulze
City Manager