



## **AGENDA**

### **REGULAR MEETING OF THE BANNING CITY COUNCIL**

### **CITY OF BANNING, CALIFORNIA**

**April 12, 2022**

**5:00 p.m.**

**In Chambers and via Zoom**

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 via Zoom so that members of the public may observe and participate in this meeting electronically. If you 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/81007280759?pwd=d0JCK0oyeGhOQk5Cek1kd3FJUmlsQT09>

**Meeting ID: 810 0728 0759**

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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 – Reverend Damon Allen of First Missionary Baptist Church
- 1.2. Pledge of Allegiance
- 1.3. Roll Call

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

- 2.1. Approve Agenda

**3. PRESENTATION(S)**

- 3.1. Banning Electric Utility Presentation on Recent Outages in the City
- 3.2. Lifestream Presentation.....7

**4. REPORT ON CLOSED SESSION**

- 4.1. City Attorney

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

- 5.1. 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.***

- 5.2. CORRESPONDENCE

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

- 5.3. APPOINTMENTS

- 5.4. CITY COUNCIL COMMITTEE REPORTS

- 5.5. CITY MANAGER REPORT

- 5.6. CITY ATTORNEY REPORT

**6. 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 6.1 to 6.9.**

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

- 6.1. Approval of Minutes of the March 8, 2022 City Council Meetings.....12

- 6.2. Approval of Minutes of the March 22, 2022 City Council Meetings.....**14**
- 6.3. Fee Waiver request of the not to exceed amount of \$1,440.00 for LifeStream’s use of the Community Center for their Community Blood Drive Events.....**15**
- 6.4. Consideration of Resolution 2022-31, Declaring the Intention to Levy and Collect Assessments for Fiscal Year 2022/2023, Approving the Engineer’s Report and Setting the Date for the Public Hearing for Landscape Maintenance District No. 1..... **17**
- 6.5. Consideration of Resolution 2022-33, Accepting an Allocation of California Department of Transportation (Caltrans) Funds in the amount of \$40,000 and Awarding a Professional Services Agreement to STC Traffic, Inc. for the Development and Preparation of the Local Roadway Safety Plan (LRSP) in the amount of \$49,980..... **21**
- 6.6. Butterfield Specific Plan (“Atwell”) Annual Development Agreement Review.**25**
- 6.7. Authorize the City Manager to sign the Notice of Completion for Project No. 2021-05 “PD Communication Fiber Optic” as complete and direct the City Clerk to record the Notice of Completion..... **28**
- 6.8. Approve an Agreement between Southern California Gas Company, Tri-Pointe Homes IE-SD, Inc., and the City of Banning Amending an Existing Right-of-Way..... **30**
- 6.9. Consideration of Resolution 2022-30, Establishing a Policy which Establishes Liability Program Trust Accounts and Delegates Settlement Authority of Tort Liability Claims to the Public Entity Risk Management (PERMA)..... **32**

## **7. PUBLIC HEARING(S)**

None

## **8. REPORTS OF OFFICERS**

- 8.1. Fiscal Year 2020-21 Annual Comprehensive Financial Report (ACFR) for City of Banning and Audited Financial Statements for Banning Utility Authority and Banning Housing Authority.....**35**  
(*Staff Report: Suzanne Cook, Finance Director*)

**Recommendation:** Receive and file fiscal year 2020-21 Audited Financial Reports and Independent Auditor’s Reports for the City, Banning Utility Authority, and the Housing Authority which were audited by CliftonLarsonAllen LLP (“CLA”).

- 8.2. Consideration of Resolution 2022-35, Authorizing the Use of Funds of the Treasury’s Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) Funded by the American Rescue Plan Act (ARPA)..... **38**  
(*Staff Report: Doug Schulze, City Manager*)

**Recommendation:** Staff recommends: (1) Council approve Resolution 2022-35 authorizing the Use of Funds of the Treasury’s Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) Funded by the American Rescue Plan Act (ARPA) as outlined in Exhibit “A”; and, (2) Authorize the City Manager or his designed to make

all necessary appropriations, transfers and budget adjustments related to Resolution 2022-35.

- 8.3. Receive, File and Post for Public Comment for a Period of 30 days The City of Banning Comprehensive Economic Development Strategy 2021-2026.....**47**  
(Staff Report: Doug Schulze, City Manager)

**Recommendation:** No Council action requested at this time.

- 8.4. Consideration of Resolution 2022-36, Authorizing an Employment Agreement for Community Development Director with Adam Rush..... **49**  
(Staff Report: Doug Schulze, City Manager)

**Recommendation:** Approve Resolution 2022-36, authorizing the City Manager to execute a new Employment Agreement with Adam Rush, Community Development Director, effective through March 1, 2027, at a salary of \$150,189.48 annually.

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

- 9.1. Consideration of Resolution 2022-34, Continuing to Authorize 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..... **51**  
(Staff Report: Kevin Ennis, City Attorney)

**Recommendation:** Staff recommends that the City Council adopt proposed City Council Resolution No. 2022-34, 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.

## **10. ITEMS FOR FUTURE AGENDAS**

### 10.1. New Items

### 10.2. Pending Items:

1. Permanent Homeless Solution
2. Shopping Cart Ordinance Update
3. Golf Cart/EV Ordinance (On hold)
4. Airport Advisory Commission
5. Business-Friendly Zoning (Wallace)

## **11. ADJOURNMENT**

**Next Regular Meeting – April 26, 2022 at 5:00 p.m.**

**Zoom Community Standards for Public Meetings**

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

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

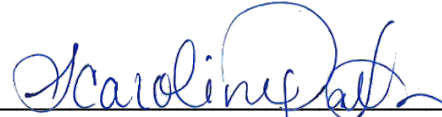
**Estándares comunitarios de Zoom para Reuniones Públicas**

*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](http://www.banningca.gov)) as well as the Bulletin Board at Banning City Hall, located at 99 E Ramsey Street, Banning, CA 92220 by 5:00 P.M. on the 7th day of April 2022.

  
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](http://www.banningca.gov/archive)).

### **Public Comment**

#### *Agenda Items*

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

#### *Non-Agenda Items*

Any member of the public may address this meeting of the Council on any item which does not appear on the regular meeting agenda but is of interest to the general public and is an item upon which the Council may act. A three-minute limitation shall apply to each member of the public and no member shall be permitted to share their time with any other person. No action shall be taken, nor discussion held by the Council, on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of §54954.2 of the Government Code.

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




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

**¿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](mailto:CityClerks@banningca.gov)  
99 East Ramsey Street, Banning, California 92220

## Agenda Item 3.2 - Lifestream Presentation



# Banning Senior Center

## Blood Drives – Hosted monthly

By: Scott Foster, Ralph Wright, Anaise Hollis  
Regional Account Manager: Susanne Boswell

### About LifeStream

- Located in the Inland Empire for 70 years
- 80 hospital partners
- 500 donations a day needed
  - Due to the pandemic, we are only collecting around 350 a day... Not Good
- Critical Situation, as we currently have less than 1 day supply available.
- Nation-wide Shortage Like We Have Never Seen
- Takes approximately 1 hour to donate whole blood





## Agenda Item 3.2 - Lifestream Presentation

### How Much Blood is Needed?

- **Liver Transplant**
  - 45 pints blood product
- **Heart Transplant**
  - 4 to 6 pints blood product
- **Auto Accident**
  - 4 to 40 pints blood product
- **Bone Marrow Transplant**
  - Over 150 pints of blood product, over several weeks



### Blood Drives

- Running since 2014
  - **168 Pints** / 12 Drives (During the last year)
- 2022:
  - **Goal of collecting 240 to 400 Pints**





## Agenda Item 3.2 - Lifestream Presentation

### Goal for Banning Blood Drives

- Looking to obtain more donors in the Banning community
- Partner with local organizations & events to host them
- Need the City's to help to promote them
- **City link:**  
<https://www.lstream.org/bb/>

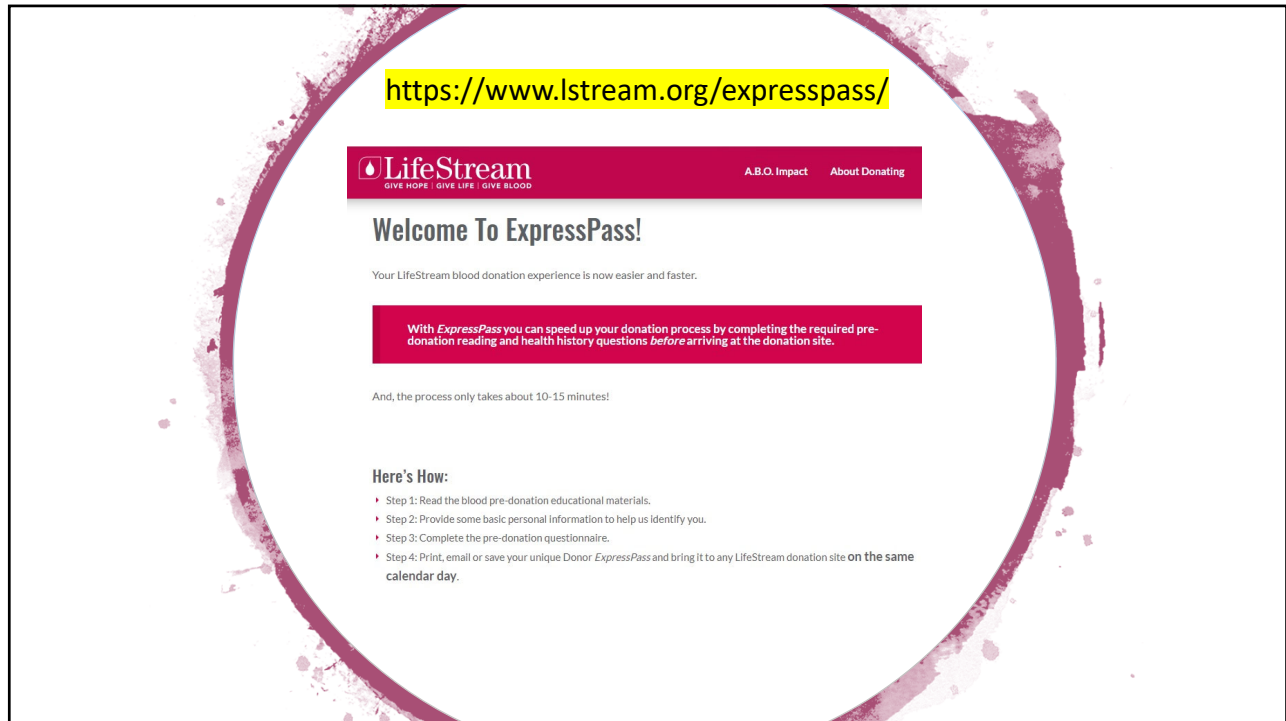


### Recruitment Plan

- Finding ways to recruit more donors by reaching out to the community
  - Posting Marketing Materials
  - Social Media
  - Text
  - Email




## Agenda Item 3.2 - Lifestream Presentation



## Day of Drive

- **Steps Being Taken Due to Covid**
  - Staff are wiping and cleaning all surfaces after each use
  - All items used for blood draw are sterile & sealed for one time use
  - Masks will be worn by staff, students are required to wear masks as well
  - Appointments spaced out to prevent large build up of people at one time
  - Visit <https://www.lstream.org/covid-19/> for all details related to blood donation and Covid-19



## Agenda Item 3.2 - Lifestream Presentation



Give Hope

Give Life

Give Blood



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Kevin Ennis, City Attorney  
Caroline Patton, Deputy City Clerk

**MEETING DATE:** April 12, 2022

**SUBJECT:** Minutes of the March 8, 2022 City Council Meetings

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### **RECOMMENDATION:**

Approve the minutes of the March 8, 2022 City Council Meetings with the amendments proposed by staff.

### **BACKGROUND:**

At the March 22, 2022 Regular Meeting of the City Council, the City Council requested staff and the City Attorney conduct further analysis of the meeting minutes for the March 8, 2022 Regular Meeting in response to public comment submitted by Kathleen Dale. Staff has compared the transcription, minutes summary, as well as Ms. Dale's suggested revisions, and come up with modified language to reflect Ms. Dale's comments on the redistricting item more completely. Staff is recommending that the staff proposed changes to the minutes be approved as part of the action to approve the minutes.

### **ALTERNATIVES:**

1. Approve as recommended.
2. Approve with other modifications.

### **ATTACHMENTS:**

1. Minutes of the March 8, 2022 Special City Council Meeting  
[https://banningca.gov/DocumentCenter/View/10293/01-Minutes\\_Special-Meeting](https://banningca.gov/DocumentCenter/View/10293/01-Minutes_Special-Meeting)
2. Minutes of the March 8, 2022 Regular City Council Meeting  
[https://banningca.gov/DocumentCenter/View/10292/02-Minutes\\_Regular-Meeting](https://banningca.gov/DocumentCenter/View/10292/02-Minutes_Regular-Meeting)
3. Staff Analysis of Public Comments  
<https://banningca.gov/DocumentCenter/View/10287/03-Staff-Analysis>

4. Public Comment from Kathleen Dale

<https://banningca.gov/DocumentCenter/View/10286/04-Dale-Public-Comment>

Approved by:

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

Douglas Schulze  
City Manager



**CITY OF BANNING  
STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** April 12, 2022

**SUBJECT:** Minutes of the March 22, 2022 City Council Meetings

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**RECOMMENDATION:**

Approve the minutes of the March 22, 2022 City Council Meetings.

**ALTERNATIVES:**

1. Approve as recommended.
2. Approve with modifications.

**ATTACHMENTS:**

1. Minutes of the March 22, 2022 Special City Council Meeting  
[https://banningca.gov/DocumentCenter/View/10336/2022-03-22\\_Minutes\\_Special-Meeting](https://banningca.gov/DocumentCenter/View/10336/2022-03-22_Minutes_Special-Meeting)
2. Minutes of the March 22, 2022 Regular City Council Meeting  
[https://banningca.gov/DocumentCenter/View/10337/2022-03-22\\_Minutes\\_Regular-Meeting](https://banningca.gov/DocumentCenter/View/10337/2022-03-22_Minutes_Regular-Meeting)

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:** April 12, 2022

**SUBJECT:** Fee Waiver request of the not to exceed amount of \$1,440.00 for LifeStream's use of the Community Center for their Community Blood Drive Events

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### **RECOMMENDATION:**

Staff recommends that the City Council approve the requested fee waiver for use of the multi-purpose room for Life Stream Blood Bank's monthly blood events.

### **BACKGROUND:**

Life Stream, a local non-profit organization, provides blood products and services to over 80 Southern California hospitals in six counties. LifeStream has hosted monthly blood drives in the Community Center for multiple years and provides a necessary and valuable service to the Community. The ease of access and the availability of the Community Center provides the citizens of Banning a great option to donate blood and ensure that the needs of our local hospitals are met.

The severe need for blood and the accompanying product has led to a potential increase in scheduled blood drive events. LifeStream has regularly hosted monthly blood drives but because of the need is looking at adding additional events during the spring and summer months. LifeStream has requested the waiver of its facility use fees for their monthly blood drives. The fees for their requested use include up to 16 rentals of the Senior Center's Multi-purpose room at the Community Center. With a monthly fee of \$90.00 per day, resulting in a total fee waiver request of \$1,440.00 for their use. Their requested uses have taken place during regular business hours and do not require additional staff time for opening and closing of the facility and LifeStream provides their own equipment and set up and take down for their use.

Chapter 3.40.010, of the Banning Municipal Code establishes the protocol for the waiver of fees for non-profit organizations that provide a valuable public service to the community. Per this chapter, fee waiver requests above one thousand dollars require the authorization and approval of the Banning City Council.



**JUSTIFICATION:**

LifeStream's offering of blood drive events provide a valuable public service to our community and the use of the Community Center provides a location that not only enhances their efforts but allows for easy participation of our citizens in this endeavor.

**FISCAL IMPACT:**

Although there is a potential loss of revenue from the fee waiver for the requested use, there are no other revenue generating uses that are being displaced by approving the requested fee waiver. Additionally, since their facility usage takes place during regular business hours, there is not additional staff costs associated with this use.

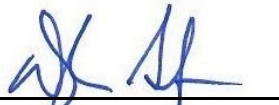
**ALTERNATIVE:**

Do not approve the fee waiver request and provide alternate direction.

**ATTACHMENT:**

1. Fee Waiver Request letter from LifeStream  
[https://banningca.gov/DocumentCenter/View/10306/Lifestream-Fee-Waiver-Letter\\_031722](https://banningca.gov/DocumentCenter/View/10306/Lifestream-Fee-Waiver-Letter_031722)

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  
Ann Marie Loconte, Associate Engineer

**MEETING DATE:** April 12, 2022

**SUBJECT:** Consideration of Resolution 2022-31, Declaring the Intention to Levy and Collect Assessments for Fiscal Year 2022/2023, Approving the Engineer's Report and Setting the Date for the Public Hearing for Landscape Maintenance District No. 1

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### **RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution 2022-31, Declaring the Intention to Levy and Collect Assessments, Approving the Engineer's Report and Setting the Date for the Public Hearing for Landscape Maintenance District No. 1 ("LMD No. 1" or "District").

### **BACKGROUND:**

LMD No. 1 in the City of Banning was established through the adoption of Resolution 1990-59 on August 14, 1990 (9 tracts), with another, Tract No. 22913 being annexed into the District in 1992. An additional five tracts and three tentative tracts were annexed into LMD No. 1 (Annexation No. 1) when the City Council approved Resolution 2005-36 on May 10, 2005. There are currently ten (10) Zones and 1,015 assessment units (i.e. properties) in LMD No. 1. A map displaying the District is shown as Attachment 2. On February 22, 2022 the City Council approved Resolution No. 2022-15, initiating proceedings for the fiscal year update of LMD No.1.

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

The District, by special benefit assessments, provides funding for the operation and maintenance of certain landscape areas within the City of Banning, all of which were constructed as part of private development projects and all of which are located in the

public right-of-way. The 1972 Act requires that assessments are to be levied according to benefit rather than according to assessed value.

Adoption of this Resolution 2022-31 will accomplish three goals for the fiscal year update and renewal of LMD No. 1. First, it provides the resolution of intention to levy and collect assessments; second, it permits the City Council to review and approve the Annual Engineer's Report; and third, it sets the date and time for a public hearing. Subsequent to the approval of this Resolution, the City Council will be requested to confirm the assessments for Fiscal Year 2022/2023.

The Engineer's Report, which provides background on the proposed Assessments, is on file with the City Clerk and is shown as Attachment 3. Upon approval of this resolution, the public hearing will be held at the regularly scheduled City Council meeting on June 14, 2022, at 5:00 p.m., as shown in the attached schedule, Attachment 4. A detailed list of tracts in LMD No. 1 and their respective assessments is shown as Attachment 5.

For Fiscal Year 2022/2023, the Engineer's Report does reflect a Consumer Price Index (CPI) percentage increase of 5.00% on the assessments over the last fiscal year applied only to those tracts annexed into LMD No.1 (currently six built tracts) in 2005, at which time, those property owners authorized the CPI adjustment.

The annual assessments may be increased without further notice or public hearing by a percentage equal to the increase in the CPI for all Urban Consumers in the Riverside-San Bernardino-Ontario, CA area, published by the United States Department of Labor, Bureau of Labor Statistics during the preceding calendar year, provided however, that any such increase shall not exceed five percent (5%) per fiscal year. The actual CPI for 2021 is 8.59% and thus the allowed maximum of 5% will be applied.

Due to the revenue shortfall and the lack of funding for replacement projects, the Public Works Department prepared a Request for Proposals in December of 2018 with the intention to hire a consultant with expertise in the Proposition (Prop) 218 process and assessment districts to determine the proper zones and assessment amounts for each tract and the basis of assessments; assist in holding a Prop 218 balloting proceeding and public hearing; determine the estimated budget for the next 20 years; prepare necessary reports; and perform community outreach. In essence, a complete overhaul of the LMD No. 1 was to be explored, including the potential restructuring of the Zones and assessments.

A professional services contract was awarded to Webb Municipal Finance, LLC at the April 9, 2019 City Council meeting. They analyzed the existing LMD No. 1 structure, prepared a financial analysis, determined the proper zones and assessment amounts for each tract in order to assure the LMD No.1 is operated with a balanced budget. On January 14, 2020, the City Council approved the Financial Analysis, Redevelopment, and Proposition 218 Report ("Financial Report") prepared by Webb Municipal Finance, LLC. The consultant prepared a detailed analysis and budget for all the existing tracts

within LMD No. 1 and recommended that it be rezoned in a manner that allows for each tract to pay only for benefits that it is receiving. Thus, ten (10) new Zones were developed to better reflect each tract's unique expenses and revenues and benefits bestowed to its' property owners residing within the Zone, as shown in Attachment 2, the LMD No.1 map.

Additionally, the Financial Report analyzed the LMD No. 1 budget and recommended changes including some increases to the Assessment Units to ensure revenues were sufficient to support the rising expenditures. A Prop 218 Vote was recommended in the Financial Report to change the Assessments needed to balance the budget. Webb Municipal Finance, LLC prepared a "Proposition 218" Engineer's Report that presented the new escalated Assessment Unit rates for each Zone reflected on the Proposition 218 Vote Card for each Zone. A Public Hearing and Proposition 218 Vote was held in the Banning Council Chambers on December 8, 2020 with the results tabulated showing a "No" vote for each of the ten Zones. Thus, the Assessment Unit rate remained unchanged, equal to the rate in the Annual Engineer's Report recommended to be approved as part of this resolution, with no increases despite rising costs. The exception are Zones six through ten whose tracts were annexed into LMD No.1 in 2005, at which time, those property owners authorized the CPI adjustment.

The Annual Engineer's Report requested to be approved as part of Resolution 2022-31 lists the Assessment Unit (AU) rates and costs to be levied to the property owners within LMD No. 1 for FY 2022/2023.

### **JUSTIFICATION:**

The City Council approved the formation of Landscape Maintenance District (LMD) No. 1 by adopting Resolution No. 1990-59 on August 14, 1990. The adoption of this Resolution will enable the assessments to be collected from the property owners located within LMD No. 1 to provide for the funding required to maintain landscape areas located within the public right-of-way directly benefiting said property owners.

### **FISCAL IMPACT:**

Based on the proposed assessments in the Engineer's Report, the estimated revenues for Fiscal Year 2022/2023 for LMD No. 1 will be approximately \$146,319.78, with the 5.00% CPI increase applied to the existing tracts annexed into LMD No. 1 in 2005: Tracts 28252, 30793, 31833, 31834, 31835 and 30906, Zones six through ten. If approved, the annual assessment for a single-family dwelling in these Zones would increase from the current rate of \$221.57 to \$240.60.

The estimated expenses are \$175,561.95 (based on FY 2021/2022 actual costs), a shortfall of approximately \$29,242.17 for the overall District.

Attachment 6 identifies funding reserve balances in each zone. Many of the zones do not have sufficient reserves to cover the projected expenses; therefore, a reduction in maintenance services is imminent to reduce costs.

**ALTERNATIVES:**

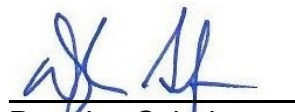
1. Approve Resolution 2022-31 as presented.
2. Approve Resolution 2022-31 with modifications.
3. Reject Resolution 2022-31 and provide direction.

If Resolution No. 2022-31 is rejected, staff could not continue with the process of assessing the homeowners and properties within LMD No. 1 a fee to pay for operation and maintenance costs. Expenses funded by the fee currently include the landscape maintenance contractor, utility costs (water and electric), administrative costs, and miscellaneous costs. Without an assessment, other funding sources would have to be utilized to pay for the expenses related to the operation and maintenance of LMD No.1.

**ATTACHMENTS:**

1. Resolution 2022-31  
<https://banningca.gov/DocumentCenter/View/10311/Att-1-LMD-No-1-Resolution-No-2022-31>
2. LMD No. 1 Map for FY 2022/23  
<https://banningca.gov/DocumentCenter/View/10312/Att-2-LMD-No1-Map>
3. LMD No. 1 Engineer's Report for FY 2022/23  
<https://banningca.gov/DocumentCenter/View/10307/Att-3-LMD-No-1-Engineers-Report-22-23>
4. Tentative Schedule for Updating LMD No. 1  
<https://banningca.gov/DocumentCenter/View/10308/Att-4-Tentative-Schedule-for-Updating-LMD-No-1>
5. LMD No. 1 Assessments  
<https://banningca.gov/DocumentCenter/View/10309/Att-5-LMD-No-1-Tracts-Zones-and-Assessments-for-FY22-23>
6. Zone Funding  
<https://banningca.gov/DocumentCenter/View/10310/Att-6-Zone-Funding>

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:** April 12, 2022

**SUBJECT:** Consideration of Resolution 2022-33, Accepting an Allocation of California Department of Transportation (Caltrans) Funds in the amount of \$40,000 and Awarding a Professional Services Agreement to STC Traffic, Inc. for the Development and Preparation of the Local Roadway Safety Plan (LRSP) in the amount of \$49,980

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### **RECOMMENDATION:**

Staff Recommends that the City Council adopt Resolution 2022-33:

1. Authorizing the Director of Public Works or his designee to accept and receive California Department of Transportation (Caltrans) grant funds and to prepare all required Caltrans forms and reports related to the allocation of Caltrans grant funds in the amount of \$40,000.
2. Awarding a Professional Services Agreement for the "Development and Preparation of the Local Roadway Safety Plan (LRSP)" to STC Traffic, Inc. in the amount of \$49,980.
3. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement for the "Development and Preparation of the Local Roadway Safety Plan (LRSP)" and provide a city match of local funds in the amount of \$10,000 to fund the project.
4. Authorizing the City Manager or his designee to execute the Professional Services Agreement with STC Traffic, Inc. of Carlsbad, California in the "not to exceed" amount of \$49,980.

### **BACKGROUND:**

#### **CALTRANS Grant**

Federal regulations require that each State have a Strategic Highway Safety Plan (SHSP). A SHSP is a statewide data-driven traffic safety plan that coordinates the efforts of a wide range of organizations to reduce traffic accident fatalities and serious injuries on all public roads. The SHSP address the "4E's" of traffic safety: Engineering, Enforcement, Education, and Emergency Services.

While the SHSP is used as a statewide approach for improving roadway safety, a Local Roadway Safety Plan (LRSP) is a means for providing local and rural road owners with an opportunity to address unique highway safety needs in their jurisdictions while contributing to the success of the SHSP. The process of preparing an LRSP creates a framework to systematically identify and analyze safety problems and recommend safety improvements.

Preparing a LRSP facilitates the development of local agency partnerships and collaboration, resulting in a prioritized list of improvements and actions that can demonstrate a defined need and contribute to the statewide plan. A LRSP provides a framework for organizing stakeholders to identify, analyze, and prioritize roadway safety improvements on local and rural roads.

Starting in 2022, HSIP (Highway Safety Improvement Program) Calls for Projects will require that an agency have an approved LRSP to be eligible to apply for federal HSIP funds. The City of Banning submitted a LRSP preparation Funding Application form to Caltrans in March of 2021 for the maximum grant amount of \$40,000 and received notification in April of 2021 that a \$40,000 LRSP grant with a required \$10,000 City match was approved. The grant is based on population, centerline miles, and lane miles within the city.

A LRSP identifies, analyzes, and prioritizes safety improvements on local roadways and is designed as a living document that can be updated to reflect changing conditions, needs, and priority. The goal is to improve transportation safety and reduce the number of accidents. Stakeholders such as WRCOG, RCTC, Banning Police and Fire Departments, Banning Unified School District and Emergency Medical Services will be involved to identify priority concerns and establish LRSP goals.

#### Award of Consultant Contract

The Scope of Work includes all work necessary to develop and prepare a Caltrans acceptable LRSP for the City that will provide a blueprint for future projects with costs associated with each project.

Preparation of the City's LRSP will be accomplished through acquiring and analyzing data, identifying partners to review the data, selecting emphasis areas, developing safety strategies and countermeasures, and adopting the final plan. The LRSP will play a critical role in addressing traffic collision risks and may identify specific or unique conditions that contribute to traffic collisions within the City.

The LRSP will provide the city the opportunity to proactively correct high collision or problem locations and prevent local road fatalities and injuries. The final LRSP will recommend proven countermeasures, provide a structured and realistic set of responses that implement changes over time, will integrate the "4 E's" approach (Engineering, Enforcement, Education, and Emergency Services) in its' proposed solution strategies, and identify road safety partners that could sustain a long-term effort.



The detailed scope of work is outlined in Attachment 2, the Request for Proposals (RFP), and in the attached consultant's proposal (Attachment 3). If approved, it is anticipated that the work would be completed by the August of 2022. This would enable Public Works Department staff to apply for Cycle 11 HSIP funding in the Fall of 2022 with the goal of receiving funds to implement the LRSP identified projects.

On March 8, 2022, staff released a Request for Proposal (RFP) Bid for the "Development and Preparation of the Local Roadway Safety Plan (LRSP)" to seven (7) consultants from the on-call engineering list. In response to these efforts, one (1) proposal was received. It is probable that due to the fact that this project is highly specialized requiring extensive traffic and transportation engineering and recent LRSP preparation experience, one proposal was submitted to the city. The RFP included: a detailed Consultant Scope of Services/Tasks, submittal requirements, and a description of the evaluation criteria and selection process for the RFP.

An Evaluation/Selection committee comprised of three (3) Public Works Department staff was formed to score and rank the one proposal that was received. The committee ranked the consultant as follows:

CONSULTANT	TOTAL SCORE
STC Traffic, Inc.	92.7

STC Traffic, Inc. had an average score of 92.7 amongst the three panel members. The project manager has over twenty years of traffic engineering with extensive community outreach and stakeholder engagement noted. The QA/QC staff member has 35 years of experience, and both staff served as City Traffic Engineer for large cities. The project team members have worked on LRSPs, and they have performed numerous projects with a similar scope of work to this project, have extensive Caltrans experience, and demonstrated they can perform the work involved.

**JUSTIFICATION:**

The grant funds will assist the City in developing a LRSP. STC Traffic, Inc. is a reputable qualified firm from the preapproved on-call engineering list and has received a qualifying score. The firm has extensive traffic and transportation engineering experience.

**FISCAL IMPACT:**

The Professional Services Agreement will have a total project budget amount of \$49,980 and will be funded by Account No. 001-3000-442.33-53.

The Caltrans grant is providing eighty percent (80%) of the project's funding and the City's local match is equal to twenty percent (20%) of the project costs.

**ALTERNATIVES:**

The City Council may choose not to adopt Resolution No. 2022-33 at this time, which would result in the City not being eligible to receive Caltrans Grant funding for the development and preparation of the LRSP which is required for HSIP grant funding.

**ATTACHMENTS:**

1. Resolution 2022-33  
<https://banningca.gov/DocumentCenter/View/10315/Att-1-Resolution-2022-33-Award-Contract-for-LRSP-Preparation>
2. Request for Proposal (RFP)  
<https://banningca.gov/DocumentCenter/View/10316/Att-2-LRSP-RFP-382022>
3. STC Traffic, Inc. Proposal dated March 22, 2022  
<https://banningca.gov/DocumentCenter/View/10313/Att-3-Proposal-from-STC-Traffic-Inc-3222022>
4. Draft Professional Services Agreement  
<https://banningca.gov/DocumentCenter/View/10314/Att-4-Draft-Professional-Services-Agreement>

Approved by:

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



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Staff Member Submitting Staff Report

**MEETING DATE:** April 12, 2022

**SUBJECT:** Butterfield Specific Plan ("Atwell") Annual Development Agreement Review

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### **RECOMMENDATION:**

Staff recommends that the City Council take the following action:  
Receive and File the enclosed Annual Review for the Butterfield Specific Plan being developed by Pardee Homes as the Atwell Master Planned Community and that the developer is proceeding in Good Faith in accordance with Section 12.1 of the Development Agreement and Government Code 65865.1.

### **BACKGROUND:**

In accordance with Section 12, page 34, of the Development Agreement between the City of Banning ("City") and Pardee Homes ("Developer"), which was entered into on March 27, 2012, with a subsequent revised effective date of February 9, 2015, the City is conducting an annual review, following the commencement of construction, which is reviewing the performance of the agreement on or about each anniversary of the effective date of said agreement. The developer has delivered the necessary information, reasonably requested by the City, regarding the Developer's performance under the agreement. Staff has reviewed the information requested, performed a series of site inspections, conducted several meetings with the Developer, and determined that the Developer has, and continues to, demonstrate compliance with the Agreement; that the Developer is implementing the Agreement in good faith, and continues to comply with the provisions and regulations of the Adopted Specific Plan, the Certified Environmental Impact Report, and the existing land use regulations set forth by the City, through the Banning Municipal Code and the Butterfield Specific Plan.

### **JUSTIFICATION:**

A summary of the project activities, over the past year, is detailed in the Table 1 below:

**TABLE 1: Atwell Development Actives:**

<b>Development Agreement Section/Provisions</b>	<b>Status</b>
Section 1 - Definitions	Conforming/No Update
Section 2 – Exhibits	Conforming/No Update
Section 3 – Term	Conforming/No Update
Section 4 – Development of the Developer's Property	(4.7) A Development Impact Fee Update was completed on September 10, 2019.
Section 5 – Financing and the City's Obligations	Formation of Financing Districts has been completed and the first series of bonds has been successfully sold. It is anticipated that the second series of bonds will be going to sale in the second quarter 2022. A Development Impact Fee Agreement has been approved.
Section 6 – Time for Construction and Completion of Project	<p>(6.1) The development is proceeding at an acceptable pace given current market conditions.</p> <p>(6.2) Permits: All residential permits have been pulled in Phase 1A. Approximately 250 residential building permits have been pulled in Phase 1B. Closings: There have been approximately 410 closings within in Phase 1A and 110 closing within Phase 1B. A number of homes in both phases are in various forms of construction. Sales continue to be strong but rising interest rates; material costs and material lead times are becoming problematic.</p> <p>(6.2.3.) Infrastructure related plans are being developed, have been submitted or approved for all of Phase 1A and future Phase 1B in addition to future Phases.</p> <p>(6.2.4.) Developer has undergone a good faith effort to market the commercial retail planning area. All surrounding infrastructure is in place to accommodate construction should a commercial developer show interest in starting.</p> <p>All other provisions, of Section 6, is proceeding in good faith.</p>
Section 7 – Development Impact Fees	<p>(7.2.2) Development Impact Fee Studies are complete. Adjustments will be made at the 10-year review.</p> <p>(7.3.5.) Fee Impact Studies associated with reclaimed water facilities are complete.</p> <p>(7.5.1 – 7.5.3.) A TUMF Credit Agreement was executed by the City Council at the May 14, 2019, Meeting and work has been completed on Highland Springs Avenue between 8<sup>th</sup> Street/Wilson Street and Oak Valley Parkway/Meadowline Way.</p>

Section 8 – Dedications and Conveyances of Property Interests	(8.1.1.) Plans have been submitted and are continuing to be submitted for review. Plans are being submitted and actively processed by the City for infrastructure improvements.
Section 9 – Processing of Requests and Applications: Other Government Permits	(9.2) A Deposit Reimbursement Agreement is executed between the Developer and City. (9.3) City is generally complying with the two-week turnaround timeframes.
Section 10 – Amendment and Modification of Development Agreement	Conforming/ Settlement Agreement Passed updating Fee Waivers provisions.
Section 11 – Reservations of Authority	Conforming/No Update
Section 12 – Annual Review	Conforming
Section 13 – Default, Remedies & Termination	Conforming/No Update
Section 14 – Assignment	Conforming/No Update
Section 15 – Releases and Indemnities	Conforming/No Update
Section 16 – Effect of Agreement on Title	Conforming/No Update
Section 17 – City Officers and Employees: Non-Discrimination	Conforming/No Update
Section 18 – Mortgage Protection	Conforming/No Update
Section 19 – Miscellaneous	Conforming/No Update

### **FISCAL IMPACT:**

The cost of staff time needed to prepare this report will be covered through the development fees on deposit with the City.

#### **Year**

2021/2022

#### **Estimated Amount**

\$380.00 (reimbursable)

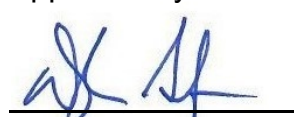
### **ALTERNATIVES:**

1. Continue and request additional information from staff.
2. Continue and schedule to allow public input, if applicable

### **ATTACHMENTS:**

1. Development Agreement  
<https://banningca.gov/DocumentCenter/View/10318/Att-1-Dev-AgreePardee-7-17-12>
2. Specific Plan Land Use Exhibit  
<https://banningca.gov/DocumentCenter/View/10317/Att-2-Specific-Plan-Land-Use-Plan>

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 Engineer

**MEETING DATE:** April 12, 2022

**SUBJECT:** Authorize the City Manager to sign the Notice of Completion for Project No. 2021-05 "PD Communication Fiber Optic" as complete and direct the City Clerk to record the Notice of Completion.

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### **RECOMMENDATION:**

That the City Council accept Project No. 2021-05, "PD Communication Fiber Optic" 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 January 26, 2022 the City of Banning awarded a Construction Contract C00734 to Alfaro Communication Construction, Inc. for Project No. 2021-05 "PD Communication Fiber Optic". The project was approved in the amount of \$55,500.

The scope of work included the underground installation of 1,000 feet of Fiber Optic cable from the Riverside County communication tower located at the southwest corner of Alessandro Street and Williams Street to the utility room of City of Banning Police Department located at 125 E. Ramsey Street.

### **JUSTIFICATION:**

The lowest qualified bidder, Alfaro Communication Construction, Inc. was awarded the contract and work was completed on March 7, 2022. Public Works staff verified through inspections that the workmanship, materials, and procedures were satisfactory, and that the contract had met the required contract obligations.

One project change order was processed in the amount of \$2,900 to install an additional 100 feet of fiber optic cable that is needed to connect existing communication equipment in the Banning Police Department server room.

**FISCAL IMPACT:**

The project was awarded in the amount of \$55,500 and the final contract amount was \$58,400, within the approved 10% contingency.

**ALTERNATIVES:**

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

**ATTACHMENTS:**

1. Notice of Completion  
<https://banningca.gov/DocumentCenter/View/10319/Att-1-NOC-PD-Fiber-Optic>
2. Construction Contract C00734  
<https://banningca.gov/DocumentCenter/View/10320/Att-2-Contract>

Approved by:

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

Douglas Schulze  
City Manager





## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** April 12, 2022

**SUBJECT:** Approve an Agreement between Southern California Gas Company, Tri-Pointe Homes IE-SD, Inc., and the City of Banning Amending an Existing Right-of-Way

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### **RECOMMENDATION:**

Staff recommends the City Council:

1. Approve the Amendment to Right-of-Way ("Agreement") between Southern California Gas Company ("SoCalGas"), Tri-Pointe Homes IE-SD, Inc. ("Tri-Pointe") and the City of Banning ("City") to amend an existing right-of-way held by the So Cal Gas.
2. Authorize the City Manager to sign the Agreement, attached hereto.

### **BACKGROUND:**

SoCalGas holds interest in a right-of-way recorded on July 21, 2017 for a gas valve station at the southeast corner of Highland Springs Avenue and Meadowline Way within the Atwell Development.

The City is the owner of an easement for street and public utility purposes which is adjacent to the SoCalGas right-of-way and accepted as Lot F of Atwell Tract Map No. 37298-1 recorded in December 20, 2019. The City's easement is subordinate to the SoCalGas right-of-way.

As part of the Atwell Development, Tri-Pointe homes will make improvements to the SoCalGas valve station, such as the construction of a decorative retaining wall and wrought iron fence. In order to accommodate the improvements, an expansion of the existing right-of-way area held by SoCalGas is required. The new expanded right-of-way will overlay property owned by Tri-Pointe and the City's easement.

**JUSTIFICATION:**

It is essential to provide the additional right-of-way to SoCalGas to accommodate the necessary improvements to the gas valve station.

**FISCAL IMPACT:**

There is no fiscal impact associated with this item.

**ALTERNATIVE:**

Do not approve and provide direction to staff.

**ATTACHMENT:**

1. Agreement (Amendment to Right-of-Way)  
<https://banningca.gov/DocumentCenter/View/10321/Att-1-Amendment-to-Right-of-Way>

Approved by:

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

Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** April 12, 2022

**SUBJECT:** Consideration of Resolution 2022-30, Establishing a Policy which Establishes Liability Program Trust Accounts and Delegates Settlement Authority of Tort Liability Claims to the Public Entity Risk Management (PERMA)

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### **RECOMMENDATION:**

Approve Resolution 2022-30 to reduce administrative burden and streamline processes by delegating settlement authority of small tort liability claims to the Public Entity Risk Management (PERMA) Claims Manager

### **BACKGROUND:**

The City has participated in a risk management authority program since 1986. Staff reviews and analyzes operations on an ongoing basis to identify areas in which greater efficiency and effectiveness can be achieved. Based on California Government Code, public agencies can adopt a resolution and delegate up to \$50,000 in claim handling authority. This allows smaller claims to be resolved at a staff level so the City Council can focus on more pressing matters.

### **JUSTIFICATION:**

Per our Memorandum of Liability Coverage, PERMA is already receiving all claims and has settlement authority, with City coordination, for claims over \$50,000. Tort liability claims under \$50,000 are currently coordinated by City staff. Issuing the administrative response and adjusted settlement authority is a natural extension of the claim handling services being provided by PERMA and would significantly relieve staff of the time and resources spent on the smaller claims. Several liability program items can be improved to reduce administrative burden and streamline processes. Below is how the increased settlement authority for small tort claims will function:

**Establishment of liability trust account:**

Liability trust accounts allow for the payment of claims within the City's retention (claim payments above the City's retention are charged to PERMA pool expense). These accounts are similar in concept to our established workers' compensation fund with PERMA to pay claims. Regardless of the existence of a trust account, PERMA requests/obtains the City settlement authority for liability claims within the City's retention.

Establishment of a trust account is a best practice and accomplishes the following:

1. Eliminates administrative burden for City staff.
  - a. Reduces claim-related check-writing and tracking responsibilities for the City's finance department.
  - b. The City receives monthly reports of the payments made through the trust account, so the City's financial team has complete financial transaction records.
2. Ensures proper, complete, and timely financial tracking in the claim system.
3. Enables more visibility into the City's total cost of risk.
4. Eliminates the need for City staff and PERMA to go back-and-forth to determine how much has been paid on a claim.
5. Ensures proper releases are signed.
6. Allows PERMA to timely pay claims/legal invoices.
7. Ensures quicker claim resolution.

At the end of each month, the trust account would earn interest, or be charged interest if in a deficit position, at the Local Agency Investment Fund (LAIF) monthly yield. Liability funds are more short-term rather than long-term like the workers' compensation funds (which are allocated investment interest earned from the portfolio). The City is invoiced to replenish the account.

**Provide minimal settlement authority within the City retentions:**

The delegation of settlement authority is another important tool available to the City to reduce our daily claim administration burden. Currently, PERMA has settlement authority, in coordination with the City, for claims exceeding \$50,000. This leaves an administrative inefficiency gap for claims under \$50,000. Adjusting the claim settlement authority allows early settlement opportunities and helps contain costs which ultimately impact our annual contribution and the pool's funding rates.

Our current settlement delegation is as follows (per Resolution 1997-12):

HR/Risk Management \$7,500  
City Manager \$25,000  
City Council \$25,001 - \$50,000  
PERMA Retention \$50,000+ with City coordination

We request Council adjust PERMA's settlement authority to begin at the first dollar.

**Authorize administrative response authority:**

Administrative responses ensure tort claims receive a timely response, and the City generally has 45 days to respond after a claim or amended claim is presented. The failure to make an appropriate response could prejudice the defense of the claim. Some options for responding to a claim include doing nothing, approving all or part of the claim, rejecting the claim, providing a notice of insufficiency, or providing notice that the claim is untimely.

PERMA requires all claims filed be forwarded to PERMA so they may be appropriately tracked. Because PERMA is already receiving all claims, issuing the administrative response is a natural extension of the claim handling services being provided.

Members (public agencies) that have delegated this task to PERMA receive professional and appropriate claim handling, and the member's and pool's interests are also appropriately protected. This is a no cost proposal.

**FISCAL IMPACT:**

N/A

**ALTERNATIVES:**

1. Provide an alternative settlement authority amount.
2. Continue internally processing tort claims under \$50,000.

**ATTACHMENTS:**

1. Resolution 2022-30  
<https://banningca.gov/DocumentCenter/View/10324/Att-1-Resolution-2022-30-PERMA-Authority-Delegation>
2. PERMA Staff Report 2-3-2022  
<https://banningca.gov/DocumentCenter/View/10322/Att-2-PERMA-Staff-Report>
3. Resolution 1997-12 Settlement Authority  
<https://banningca.gov/DocumentCenter/View/10323/Att-3-1997-12-Settlement-Authority>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL, BANNING UTILITY AUTHORITY AND BANNING HOUSING AUTHORITY

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** April 12, 2022

**SUBJECT:** Fiscal Year 2020-21 Annual Comprehensive Financial Report (ACFR) for City of Banning and Audited Financial Statements for Banning Utility Authority and Banning Housing Authority

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### **RECOMMENDATION:**

Receive and file fiscal year 2020-21 Audited Financial Reports and Independent Auditor's Reports for the City, Banning Utility Authority, and the Housing Authority which were audited by CliftonLarsonAllen LLP ("CLA").

### **BACKGROUND:**

The City's auditors follow specified guidelines in performing their audits including guidelines that are in accordance with generally accepted auditing standards practiced in the United States; Government Auditing Standards issued by the Comptroller General of the United States; and the provisions of Office of Management and Budget Circular A-133, Audits of State and Local Government.

CLA gave an opinion that the financial statements were presented fairly, in all material respects, and the financial position of the governmental activities, the business-type activities, and the aggregate remaining fund information of the City of Banning, as of June 30, 2021, and the respective changes in financial position, and, where applicable, cash flows thereof, were in accordance with accounting principles generally accepted in the United States of America.

For the second time this year, the City has created an Annual Comprehensive Financial Report for its City's Financial Statements. What makes this different than the standard financial statements that have been presented to Council in the past are the following items:

- **Cover Page** specifying it is an Annual Comprehensive Financial Report (ACFR)
- **Title Page**, which also states the same and who is responsible for the preparation of the ACFR.
- **Introductory Section**

- The Letter of Transmittal which has information about the City, its local economy, financial planning, policies and acknowledgements.
- List of Municipal Officers (those in office at the time of the end of the fiscal year being audited)
- List of the Executive Staff
- Organization Chart
- **Statistical Section** – this was a huge undertaking in creating the ACFR, which contains 31 tables related to the following and most of these tables provide 10 years' worth of data:
  - Financial trends – these schedules contain trend information to help the reader understand how the City's financial performance and well-being have changed over time.
  - Revenue Capacity – these schedules contain information to help the reader assess the factors affecting the City's ability to generate its key revenues.
  - Debt Capacity – these schedules present information to help the reader assess the affordability of the City's current levels of outstanding debt and the City's ability to issue additional debt in the future.
  - Demographic and Economic Information – these schedules offer demographic and economic indicators to help the reader understand the environment within which the City's financial activities take place.
  - Operating Information – these schedules contain information about the City's operations and resources to help the reader understand how the City's financial information relates to the services the City provides and the activities it performs.

The Government Finance Officers Association of the United States and Canada (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting for the Annual Comprehensive Financial Report (ACFR) to the City of Banning for its annual comprehensive financial report for the fiscal year ended June 30, 2020. This was the first year that the government has achieved this prestigious award. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized ACFR. This report must satisfy both GAAP and applicable legal requirements. A Certificate of Achievement is valid for a period of one year only. We believe that the current annual comprehensive financial report for fiscal year ending June 30, 2021, continues to meet the Certificate of Achievement Program's requirements and we are submitting to GFOA to determine its eligibility for another certificate.

### **FISCAL IMPACT:**

Report of City's financial data as of June 30, 2021. Highlights of the City as a whole:

- As of June 30, 2020, the City's Net Position, which is the difference between the City's assets and deferred outflows of resources versus its liabilities and deferred inflows of resources, is at \$207.37 million, an increase of \$10.69 million over June 30, 2020.

- At the close of the fiscal year, the Unrestricted portion of the Net Position, that which may be used to meet on-going obligations due to creditors, is \$51.11 million, an increase of \$2.00 million over the prior fiscal year.
- The Net Investment in Capital Assets, another component of Net Position, was \$137.62 an increase of \$13.92 million over June 30, 2020. The Restricted portion of the Net Position amounted to \$18.64 million, a decrease of \$5.23 million over the prior fiscal year.
- GASB Statement No. 68 (Accounting and Financial Reporting for Pensions) and Statement No. 71 (Pension Transition for Contributions Made Subsequent to the Measurement Date) require that the Net Pension Liability be presented on the face of the financial statements. At June 30, 2021, the total Net Pension Liability for the City of Banning, government-wide, was \$45.09 million, an increase of \$2.21 million over the prior fiscal year.

#### **ATTACHMENTS:**

1. Banning Governance Communication Audit Letter  
<https://banningca.gov/DocumentCenter/View/10327/Attachment-1---Banning-Governance-Communication-Audit-Letter>
2. City of Banning Annual Comprehensive Financial Report (ACFR) for Fiscal Year Ended June 30, 2021  
<https://banningca.gov/DocumentCenter/View/10328/Attachment-2---City-of-Banning-ACFR-FYE-June-30-2021>
3. Banning Utility Authority Audited Component Unit Financial Statements, June 30, 2021  
<https://banningca.gov/DocumentCenter/View/10329/Attachment-3---Banning-Utility-Authority-Component-Unit-Financial-Statements-June-30-2021>
4. Banning Housing Authority Housing Successor of the City of Banning Audited Financial Statement for Fiscal Year Ended June 30, 2021  
<https://banningca.gov/DocumentCenter/View/10325/Attachment-4---Banning-Housing-Authority--Housing-Successor-of-the-City-of-Banning-Financial-Statements-June-30-2021>
5. City of Banning Report on Internal Controls and Compliance  
<https://banningca.gov/DocumentCenter/View/10326/Attachment-5---City-of-Banning-Report-on-Internal-Controls-and-Compliance>

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

**MEETING DATE:** April 12, 2022

**SUBJECT:** Consideration of Resolution 2022-35, Authorizing the Use of Funds of the Treasury's Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) Funded by the American Rescue Plan Act (ARPA)

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### **RECOMMENDATION:**

Staff recommends:

1. Council approve Resolution 2022-35 authorizing the Use of Funds of the Treasury's Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) Funded by the American Rescue Plan Act (ARPA) as outlined in Exhibit "A".
2. Authorize the City Manager or his designed to make all necessary appropriations, transfers and budget adjustments related to Resolution 2022-35.

### **BACKGROUND:**

This item was brought to Council on February 22, 2022, to discuss the potential uses of the Coronavirus State and Local Fiscal Recover Funds. It is being brought back to Council with recommended revisions and for approval to proceed with the suggested uses.

A review on the background of the funds: On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President. Section 9901 of ARPA amended Title VI of the Social Security Act (the Act) to add Section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and Section 603, which establishes the Coronavirus Local Fiscal Recovery Fund. The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments in responding to the impact of COVID-19 and in their efforts to contain COVID-19 in their communities, residents, and businesses.

Through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID-19 public health emergency and on January 6, 2022, the Treasury issued the Final Rule clarifying prior

guidance and enumerated additional allowable expenditures for economic impacts through four categories of eligible uses which are:

- A. Public Health and Negative Economic Impacts: To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel and hospitality.
- a. COVID-19 Mitigation and prevention
  - b. Medical Expenses
  - c. Behavioral healthcare, such as mental health treatment, substance use treatment, and other behavioral health services
  - d. Preventing and responding to violence (Public Safety)
  - e. Referrals to trauma recovery services for victims of crime
  - f. Community violence intervention program
  - g. Law enforcement officers focused on advancing community policing
  - h. Enforcement efforts to reduce gun violence, including prosecution
  - i. Technology & equipment to support law enforcement response
  - j. Assistance to Households
    - i. Impacted Households/Communities
    - ii. Disproportionately Impacted Households/Communities
  - k. Assistance to Small Businesses
    - i. Definition: no more than 500 employees and are a small business concern as defined in section 3 of the Small Business Act (independently owned and operated and not dominant in field of operation)
    - ii. Impacted Small Businesses and Disproportionately Impacted Small Businesses
      - 1. Impacted Small Businesses Examples of projects: Loans or grants to mitigate financial hardship; or technical assistance or other business planning services
      - 2. Disproportionately Impacted Small Businesses Examples of projects: Rehab of commercial property, storefront improvements, and façade improvements
      - 3. Technical assistance, business incubators & grants for startup or expansion
      - 4. Support for microbusinesses
  - l. Assistance to Nonprofits
    - i. Examples of projects: Loans or grants to mitigate financial hardship; Technical or in-kind assistance to mitigate negative economic impacts of pandemic
  - m. Aid to Impacted Industries
    - i. Designate an impacted industry
      - 1. Travel, tourism, or hospitality sector
      - 2. OR: at least 8% employment loss from pre-pandemic levels or industry experience comparable or worse economic impacts as the national travel/tourism/hospitality sectors

- ii. Provide eligible aid to impacted industry
  - 1. Aid to mitigate financial hardship
  - 2. Technical assistance, counseling, or business planning services
  - 3. COVID-19 mitigations and infection prevention measures
- n. Public Sector Rehiring and Employment Uses
  - i. Public Safety, Public Health and Human Services Staff
    - 1. Identify eligible employees
    - 2. Determine time spent on COVID-19 response and use funds for payroll and covered benefits for eligible COVID-19 time
  - ii. Government employment and rehiring public sector staff
    - 1. Pre-pandemic employment
    - 2. Supporting and retaining government workers (including worker retention incentives)
    - 3. Cover admin costs for administering hiring, support and retention programs
  - iii. Effective service deliver
    - 1. Program evaluation, data and outreach and administrative needs

B. Premium Pay: To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers.

- 1. ARPA funds may be used to provide premium pay to eligible workers performing essential work during the pandemic, who maintain the continuity of operations of essential critical infrastructure sectors. Premium pay may be awarded to eligible workers up to \$13 per hours. Premium pay must be in addition to wages or compensation the eligible worker otherwise receives.
  - a. Premium pay may not exceed \$25,000 for any single worker during the program
- 2. Premium pay may be awarded in installments or lump sums and may be awarded to hourly, part-time, or salaried or non-hourly workers
- 3. Premium pay may be paid retrospectively.
- 4. ARPA funds cannot be used to reimburse itself for premium pay or hazard pay already received by the workers
  - a. Premium pay may not be paid to volunteers

B. Public Sector Revenue Loss: For the provision of government services to the extent of the reduction in revenue due to COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency.

- 1. MAJOR Revenue loss change: The Final Rule allows recipients to elect a standard allowance of \$10 million revenue loss instead of using the calculation
  - a. Allowance covers entire period of performance
  - b. Allowance is not dependent on the “size” of the entitlement
- 2. These expenditures do not have to qualify under one of the other ARPA categories but do have the same time frame for when the costs must be obligated or expended.

3. Provided for streamlined reporting, however, must still report on projects and use of funds in general.
4. Used for spending on Government Services with the following restrictions:
5. Cannot be used to offset a reduction in net tax revenue
6. Cannot be deposited into pension funds
7. Cannot be used for debt service and replenishing reserves, settlements, and judgements  
Government services include, but are not limited to:
8. Maintenance or pay-go funded building of infrastructure, including roads.
9. Modernization of cybersecurity, including hardware, software, and protection of critical infrastructure.
10. Health services.
11. Environmental remediation.
12. School or educational services.
13. And the provision of police, fire, and other public safety services
14. Construction of schools and hospitals
15. Road building and maintenance, and other infrastructure
16. General government administration, staff, and administrative facilities
17. Provision of public safety services includes purchase of fire trucks and police vehicles

D. Water, Sewer and Broadband Infrastructure: To make necessary investments in water, sewer, or broadband infrastructure.

1. Clean Water State Revolving Fund Project
2. Drinking Water State Revolving Fund Projects
3. Other "Necessary" projects
  - a. Responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise,
  - b. A cost-effective means for meeting that need, considering available alternatives, and
  - c. For investments in infrastructure that supply drinking water to meet projected population growth, projected to be sustainable over its estimate useful life.
4. Eligible area
  - a. Encouraged to prioritize locations without access to 100/20 Mbps
  - b. Lack of access to reliable high-speed broadband connection
  - c. Lack of affordable broadband
  - d. Lack of reliable service
5. Meet high-speed technical standards
  - a. 100 Mbps download and upload speeds unless not practicable
  - b. 100/20 Mbps minimum scalable to 100 Mbps download and upload speeds
6. Low-income subsidy program

- a. Requires the service provider to either participate in the FCC's Affordable Connectivity Programs (ACP) or provides access to low-income program commensurate to ACP
7. Cybersecurity
  - a. Eligible use for cybersecurity for existing and new broadband infrastructure
  - b. Includes modernization of hardware and software

The City of Banning has been allocated \$7,468,726 in CSLFRF to be disbursed in two equal installments. The first installment was received in July 2021, \$3,734,363 and the second installment expected to be received in July 2022. A separate fund was created to track the funds.

### **JUSTIFICATION:**

City staff have put together suggestions for uses of these funds to help with responding to public health and safety, negative economic impacts, needed water, sewer, and broadband infrastructure, and pay for essential workers as described below:

#### **Public Health and Negative Economic Impacts**

1. **Public Safety** – To help keep the community safe, hire additional police officers (5), increase salary to retain and recruit officers and pay for additional overtime (Council approved May 11, 2021) – **allocated amount \$1,317,350**
2. **Zen City** – Community engagement platform to help reach more of the community through information sharing and dialogue. Includes collaboration with the Civil Space platform, which provides the ability to engage in ongoing dialogue. (Council approved November 9, 2021) – **allocated amount \$24,000**
3. **Business grants/Façade Improvements** – Provide grants of \$5,000 (20) for active small businesses, approximately \$100,000 and allocate funds to help with façade improvements approximately \$250,000. Grants of \$5,000 to businesses based in Banning with an active Business License that can meet the following criteria and demonstrate the following: 1.) Have no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and 2.) Are a small business concern as defined in section 3 of the Small Business Act<sup>8</sup> (which includes, among other requirements, that the business is independently owned and operated and is not dominant in its field of operation).
  - a. Recipients can identify small businesses impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:
    - i. Decreased revenue or gross receipts
    - ii. Financial insecurity
    - iii. Increased costs
    - iv. Capacity to weather financial hardship
    - v. Challenges covering payroll, rent or mortgage, and other operating costs
  - b. Assistance to small businesses that experienced negative economic impacts includes the following enumerated uses:

- i. Grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs
- ii. technical assistance, counseling, or other services to support business planning

In addition to the grants of \$5,000, provide assistance to help with façade improvements to help beautify the community. – **proposed allocation for grants and façade improvements \$350,000 (Increased by \$150,000 from recommendations by Council)**

**Total Public Health and Negative Economic Impact project allocations \$1,691,350.**

#### Premium Pay

Provide premium pay for essential workers for the continuity of operations during the COVID-19 public health emergency. (Council approved January 25, 2022, Resolution 2022-07) – **allocated amount \$1,300,000**

**Total Premium Pay Allocations \$1,300,000**

#### Water, Sewer and Broadband Infrastructure

##### Broadband Projects:

1. **Public Safety Police Department** the Banning Police Department building was completed in 2010. The infrastructure was completed with 2010 technology and has not been updated since. If you were to look at cell phone technology alone about every 12 months there are upgrades making the newest phone almost obsolete after it is purchased. Our computer infrastructure and camera systems at the Banning Police department is failing under the weight of the old technology. The Police Department is working off 12-year-old technology when training and attempting to utilize online meetings. The request of funding is to upgrade the entire department of the infrastructure.

Part of the overall funding regarding the infrastructure is the camera systems. The camera systems are also working off 12-year-old technology that requires storage of data at the department instead of cloud based. Cloud based allows for the storage of data that can easily be retrieved from anywhere as opposed to only at the police department and on department servers. In 2021, a person damaged one of the large panes of glass at the police building. The suspect was not captured on a camera based on the location and poor quality of the system. An upgraded camera system will assist not only the protection of the police department but will assist with the prosecution of crimes. The camera system upgrade also applies to the interview rooms located in the police department. The older technology hampers the ability of the department to provide the district attorney's office with high quality video on interviews. This is a needed upgrade for the protection of the residents of Banning.

The Department has done several pilot programs with body cameras and has vehicles with in-car cameras. The in-car camera system is at least 12-years old and

failing. The body camera pilot program has provided the department with evidence and the ability to review encounters with residents. Studies have shown that body cameras protect both the residents and the officers from false claims. Cameras provide a layer of transparency for the residents and visitors of Banning. Having both an in-car system and an individual body camera enhances the ability of the department to capture video evidence that is needed for prosecution and transparency. One system alone, we have found through the pilot programs, does not provide the same level of clarity. The point of view from the vehicle and from the personal body camera has shown perspectives that can't always be seen from only one of the views.

Projects to upgrade the police departments infrastructure:

- a. PD Interview Room Solution includes car video, black box recording, interview room microphone, with cloud plan installation services for three (3) years – **proposed allocation amount \$26,100**
  - b. PD upgrades to technology in briefing room, conference room and community room/EOC – proposed allocation amount of **\$117,000**
  - c. Banning PD in car cameras and body worn cameras (Quantity 30) – **proposed allocation amount of \$380,100**
  - d. Cameras at the police station – **proposed allocation amount \$138,500**
2. **Network Upgrade-Citywide** Network and server upgrades to all city facilities; including Blade Center, Nimble, VMware, UPS, switches installation and labor – proposed **allocation amount of \$568,500**
  3. **New Enterprise Resource Planning (ERP) System** – An ERP system is business process management software that manages, automates, and integrates an agency's (company) financials, supply chain, operations, reporting, manufacturing, and human resources activities. It helps link information from the different city departments together and helps eliminate costly duplicate and incompatible technology. The city's current ERP is truly antiquated with 1990's technology and needs to be upgraded to current technology that provides a more efficient system and protection for cybersecurity. This should have been done at least 15 years ago. – **proposed allocation amount towards new ERP system \$850,000 (Decreased by \$150,000 for recommended revisions)**
  4. **Computer workstations** – To ensure the continuity of city services invest in new/replace mobile workstations - **\$30,000**
  5. **Electronic Messaging Board** – to help communicate to the community city services and messages as an additional outlet for getting information out. – proposed allocation amount **\$117,176**

**Total Broadband Infrastructure project allocations \$2,227,376**

Water and Sewer projects

1. **Ramsey Street Water Line** - A water line currently does not exist along Ramsey Street from Sunset Avenue to Highland Home Road, which will prevent the commercial zoned properties fronting Ramsey Street from being developed without a condition of approval to construct the waterline. Said condition can be economically infeasible for

some developments. This issue is at the forefront with the proposed Wyndham Hotel Phase 1 – **proposed allocation amount \$1,000,000**

2. **Replace 4” Waterline on Barbour** - An existing 4” waterline on Barbour Street from Hargrave to Juarez must be replaced in order to provided needed fire flow for the development of industrial zoned properties on the south side of town, west of Hargrave Street – **proposed allocation amount \$550,000**

3. **Sewer Line under I-10 at Hathaway** - The existing 8” line, which stretches from Ramsey Street to the Lincoln Street is at or near maximum capacity. The sewer line is needing replacement in order to accommodate the future development of projects north of the I-10 and east of Hathaway and also to reduce the likelihood of sewer system overflows (SSOs). – **proposed allocation amount \$700,000.**

**Total Water and Sewer Infrastructure project allocations \$2,250,000**

**Total Water, Sewer and Broadband Infrastructure project allocations \$4,477,376**

**FISCAL IMPACT:**

<b>CSLFRF Total Allocation to City of Banning</b>	<b>\$7,468,726</b>
Public Health and Economic Impact Projects	\$1,691,350
Water, Sewer and Broadband Infrastructure	\$4,477,376
Premium Pay	<u>\$1,300,000</u>
Total Use of Funds	\$7,468,726
Balance of Funds Available	\$0

The City has until December 2024 to obligate funds to a specific project and until December 2026 to expend all the funds received from CSLFRF. There may be other grant opportunities, especially for broadband projects, if Council would like to allocate funds differently.

**ALTERNATIVES:**

1. Approve the resolution as recommended by staff.
2. Provide direction to staff for alternative projects and approval for use of funds.

**ATTACHMENT:**

1. Resolution 2022-35  
<https://banningca.gov/DocumentCenter/View/10330/Att-1-Resolution-2022-35-Authorizing-the-Use-of-Funds-CSLFRF>



Approved by:

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



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Douglas Schulze, City Manager  
Laurie Sampson, Executive Assistant

**MEETING DATE:** April 12, 2022

**SUBJECT:** Receive, File and Post for Public Comment for a Period of 30 days The City of Banning Comprehensive Economic Development Strategy 2021-2026

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### **BACKGROUND:**

In June of 2020 the City of Banning Economic Development Department undertook the process of writing a grant to the U.S. Department of Commerce Economic Development Agency for the sole purpose of funding a Comprehensive Economic Development Strategy. (CEDS) In March of 2021 the City was awarded an amount of \$50,000.00 by the EDA to start hire a consultant and initiate the process. Competitive bids were sought for consultants and Manhattan Beach, CA based Kosmont Companies was selected to assist the city with the CEDS process. In July of 2021 two stake-holder meetings were held at City Hall and attended by various members of the Business, Education, Tribal, Non-Profit, and Utility sectors.

Upon completion of the CEDS document and as a condition of re-imburement The City of Banning is required to make a public notification of the documents completion and solicit feedback and suggestions related to the document for a period of 30-days. The Economic Development Department of the City along with the CEDS committee members are then responsible for the completion of the suggested improvements that the CEDS outlines. The CEDS document is available for review in hard copy form at Banning City Hall located at 99 E. Ramsey (Lobby) and interested parties may request a copy or on the city's website (available here: <http://www.banning.ca.us/714/Comprehensive-Economic-Development-Strat>).

Comments and suggestions may be sent via email to [citymanager@banningca.gov](mailto:citymanager@banningca.gov) or in writing to 99 E. Ramsey Street Banning CA. 92220. Attn: City Manager. **The review and comment period ends May 12, 2022.**

**JUSTIFICATION:**

The CEDS recognizes the importance of EDA's focus on resilience initiatives within local economies to withstand and recover from natural disasters and economic shocks. The CEDS includes a wide range of strategic themes for City of Banning economic resiliency including:

- Improve City fiscal health through a diversified tax base
- Invest in infrastructure that can take advantage of Regional, State and Federal funding
- Encourage entrepreneurs and small business development
- Strengthen and diversify business / employment base
- Integrate economic development efforts with environmental initiatives.

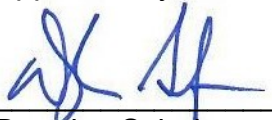
**FISCAL IMPACT:**

N/A

**ATTACHMENTS:**

1. Banning CEDS Report 2021-2026  
<https://banningca.gov/DocumentCenter/View/10331/Att-1-Banning-CEDS-Report---Final>
2. Proof of Public Notice Publication  
<https://banningca.gov/DocumentCenter/View/10332/Att-2-CEDS-Public-Notice>

Approved by:



Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**MEETING DATE:** April 12, 2022

**SUBJECT:** Consideration of Resolution 2022-36, Authorizing an Employment Agreement for Community Development Director with Adam Rush

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### **RECOMMENDATION:**

Approve Resolution 2022-36, authorizing the City Manager to execute a new Employment Agreement with Adam Rush, Community Development Director, effective through March 1, 2027, at a salary of \$150,189.48 annually.

### **BACKGROUND:**

Adam Rush was appointed to the position of Community Development Director effective March 4, 2019, and an Employment Agreement was approved by the City Council with a term of three years. The Employment Agreement expired as of March 1, 2022. Mr. Rush has expressed a desire to continue employment with the City of Banning.

Requested changes to the Employment Agreement include:

1. Term of five (5) years; and,
2. Increase annual vacation leave from 180 hours to 200 hours.

Mr. Rush is at the top step of the pay scale for the Community Development Director position so the only salary increases will be cost-of-living-adjustments based on the annual CPI.

### **JUSTIFICATION:**

Mr. Rush has performed above expectations during his employment with the City of Banning and it is in the best interest of the organization to continue employment.

### **FISCAL IMPACT:**

No additional fiscal impacts are created as a result of the new Employment Agreement.

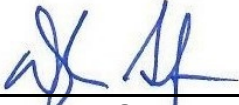
**ALTERNATIVES:**

1. Approve as recommended.
2. Approve with changes.
3. Do not approve.

**ATTACHMENT:**

1. Resolution 2022-036  
<https://banningca.gov/DocumentCenter/View/10340/Att-1-Resolution-2022-36>
2. Draft Employment Agreement  
<https://banningca.gov/DocumentCenter/View/10333/Att-2-Adam-Rush-Employment-Agreement---Draft-2022---2027>

Approved by:

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

Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Kevin G. Ennis, City Attorney

**MEETING DATE:** April 12, 2022

**SUBJECT:** Consideration of Resolution 2022-34, Continuing to Authorize 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

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### **RECOMMENDATION:**

Staff recommends that the City Council adopt proposed City Council Resolution No. 2022-34, 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 (**Attachment 1**).

### **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 the City's Planning and Parks and Recreation Commissions thereafter 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 recommend measures to promote social distancing. On December 14, 2021, January 11, 2022, February 8, 2022 and March 8, 2022, the City Council reaffirmed and readopted those same findings in Resolutions Nos. 2021-121, 2022-01, 2022-10 and 2022-21.

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. 2022-34 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. 2022-34, 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. 2022-34.
2. 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 two members at a prior meeting of that Commission.

**ATTACHMENT:**

1. Resolution No. 2022-34  
<https://banningca.gov/DocumentCenter/View/10335/Att-1-Resolution-2022-34--Remote-Attendance-v-1>

Approved by:



Douglas Schulze  
City Manager