



## **AGENDA**

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

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

**January 24, 2023**

**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>

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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 by Police Chief Hamner
- 1.2. Moment of Silence in Recognition of Fallen Riverside County Sheriff's Deputy Darnell Calhoun
- 1.3. Pledge of Allegiance
- 1.4. Roll Call

## 2. AGENDA APPROVAL

- 2.1. Approve Agenda

## 3. PRESENTATION(S)

- 3.1. Proclamation – American Heart Month..... 8

- 3.2. Recognition of Outgoing Commissioners

- Eric “Joe” Shaw (Planning Commission)
- Scott Brosius (Planning Commission)
- Leroy Miller (Parks and Recreation Commission)
- Cynthia Morquecho (Parks and Recreation Commission)

## 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

None

- 5.4. CITY COUNCIL COMMITTEE REPORTS

- 5.5. CITY MANAGER REPORT

5.6. CITY ATTORNEY REPORT

5.7. CITY TREASURER 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.)*

<b><i>Mayor to Open Consent Items for Public Comments</i></b>
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**Motion: Approve consent items 6.1 to 6.12.**

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

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**7. PUBLIC HEARING(S)**

None

## 8. REPORTS OF OFFICERS

- 8.1. Consideration of Resolution 2023-19, Directing Staff to Proceed with Proposition 218 Notifications and Schedule a Public Hearing Regarding Proposed Rate Adjustments in Connection with the Service Charge for the Collection, Transportation, Recycling and Disposal of Solid Waste and Making a Finding of Exemption under CEQA in Connection Therewith.....**30**  
(Staff Report: Art Vela, Director of Public Works)

**Recommendation:** Adopt Resolution 2023-19: (1) Directing staff to mail Proposition 218 notifications in connection with automatic annual adjustments to the collection, transportation, recycling and disposal of solid waste service rates, effective on July 1, 2023 and each July 1 thereafter through July 1, 2027, pursuant to an updated methodology for calculating the adjustments ("Rate Adjustments"); (2) Setting a Public Hearing for April 11, 2023 regarding the Rate Adjustments; and, (3) Making a Finding that the initiation of proceedings for the proposed Rate Adjustments is exempt from CEQA.

- 8.2. Consideration of Resolution 2023-14, Approving a Lease Agreement with The Banning Chamber of Commerce on Behalf of the Banning Community Gardens @ 22nd Street .....**35**  
(Staff Report: Doug Schulze, City Manager)

**Recommendation:** Staff recommends the City Council adopt Resolution 2023-14: (1) Approving a Lease Agreement with the Banning Chamber of Commerce on behalf of the Banning Community Gardens @ 22nd Street in the amount of \$1 per year for a term of 5 years; and (2) Authorizing the City Manager or his designee to execute the Lease Agreement.

- 8.3. Consideration of Resolution 2023-15, Amending the Reimbursement Policy for the Expenses of Elected and Appointed Officials.....**37**  
(Staff Report: Doug Schulze, City Manager)

**Recommendation:** The City Council adopt Resolution 2023-15, amending the Policy entitled "Reimbursement Policy of Elected and Appointed Officials."

- 8.4. Consideration of City Council Resolution 2023-16, Utility Authority Resolution 2023-01 and Successor Agency Resolution 2023-02, Approving Amendments to the Fiscal Year 2022-23 Budgets for Encumbrance Carryovers and Continuing Appropriations of Unexpended Fiscal Year 2021-22 Appropriations.....**39**  
(Staff Report: Lincoln Bogard, Administrative Services Director)

**Recommendation:** Adopt Resolutions 2023-16, 2023-01 UA and 2023-02 SA: (1) Approving amendments to the Fiscal Year 2022-23 Budgets for encumbrance carryovers and continuing appropriations of unexpended Fiscal Year 2021-22 appropriations; and (2) Authorizing the Administrative Services Director or designee, to make the necessary budget adjustments, appropriations, and transfers.

- 8.5. Consideration of Resolution 2023-23, Approving an Agreement for Professional Services for Delivery of Wrap Around Services to Clients of Opportunity Village Temporary Emergency Shelter by and between City of Banning and Faith In Action of the San Gorgonio Pass and Authorizing the City Manager to Execute the Agreement.....**42**  
(*Staff Report: Doug Schulze, City Manager*)

**Recommendation:** Adopt Resolution 2023-23, approving a professional services agreement with Faith in Action for wrap around services for clients at the Opportunity Village Homeless Shelter for an amount not to exceed \$104,000, and authorizing the City Manager to execute the Agreement on the City Council's behalf.

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

None

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

### 10.1. New Items

### 10.2. Pending Items:

1. Cannabis Microbusiness (Wallace)
2. Grow Banning (Sanchez)
3. Rent Control (Sanchez)
4. Potential Grants to Fund Playhouse Bowl Improvements (Sanchez)
5. Committee for Seniors (Gonzales)
6. Food Desert Zoning Overlay (Minjares)
7. Historic Site Preservation Board/Mills Act? (Minjares)
8. Roadside Services (Minjares)
9. Beautification of San Gorgonio Overpass Funding (Gonzales)

## **11. ADJOURNMENT**

***Next Regular Meeting – February 14, 2023 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 19th day of January 2023.



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



**CITY OF BANNING  
OFFICE OF THE MAYOR**



# **Proclamation**

**WHEREAS** in the United States, cardiovascular disease, including heart disease, stroke and high blood pressure, is responsible for one out of every three deaths; and

**WHEREAS** cardiovascular disease is the number one killer of both men and women, and it is the leading cause of serious illness and disability in the United States; and

**WHEREAS** cardiovascular disease affects Americans across all backgrounds and nearly half of all adults have at least one risk factor and many of these individuals, who are at high risk, often do not know; and

**WHEREAS** in acknowledgement of the importance of the ongoing fight against cardiovascular disease, the Congress of the United States, by joint resolution on December 30, 1963, requested the President of the United States issue an annual proclamation designating February as “American Heart Month”; and

**WHEREAS** the National Heart, Lung and Blood Institute and other organizations around the country wear red on National Wear Red Day, celebrated on the first Friday in February to bring greater attention to heart disease as the leading cause of death for Americans; and

**WHEREAS** the City of Banning understands the importance of education and outreach on the importance of combatting this disease; and

**WHEREAS** the City of Banning’s Parks and Recreation Department will be performing heart healthy outreach throughout the month of February 2023.

**WHEREAS** the parking lot lights in the Community Center will be lit up **Red** for the month of February as part of the Department’s outreach efforts.

**NOW THEREFORE**, the City Council of the City of Banning do hereby proclaim and designate the Month of February 2023, as **AMERICAN HEART MONTH** and urge all citizens to show their support for our fight against heart disease by wearing **RED** on Friday, February 3rd, 2023.

**BE IT PROCLAIMED** this 24th day of January 2023.

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*Alberto Sanchez, Mayor*





**CITY OF BANNING  
STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** January 24, 2023

**SUBJECT:** Minutes of the January 10, 2023 City Council Meetings

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**RECOMMENDATION:**

Approve the minutes of the January 10, 2023 City Council Meetings.

**ALTERNATIVES:**

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

**ATTACHMENTS:**

1. Minutes of the January 10, 2023 Special City Council Meeting  
[https://banningca.gov/DocumentCenter/View/12063/2023-01-10\\_Minutes\\_Special-Meeting---Workshop](https://banningca.gov/DocumentCenter/View/12063/2023-01-10_Minutes_Special-Meeting---Workshop)
2. Minutes of the January 10, 2023 Regular City Council Meeting  
[https://banningca.gov/DocumentCenter/View/12062/2023-01-10\\_Minutes\\_Regular-Meeting](https://banningca.gov/DocumentCenter/View/12062/2023-01-10_Minutes_Regular-Meeting)

Approved by:

Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager  
Alejandro Geronimo, City Treasurer

**PREPARED BY:** Lincoln Bogard, Administrative Services Director  
A'ja Wallace, Deputy Finance Director

**MEETING DATE:** January 24, 2023

**SUBJECT:** Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of December 2022

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### **RECOMMENDATION:**

That City Council review and ratify the warrants for period ending **December 31, 2022**, per [California Government Code Section 37208](#).

### **WARRANT SUMMARY:**

<b>Checks:</b>			
Checks Issued during Month	184885-185279	\$ 2,561,546.62	
Voided / Reissue Check			
<b>Check Total</b>			<b>\$ 2,561,546.62</b>
<b>Wires Total</b>	1100-1103		<b>\$ 3,230,120.72</b>
<b>ACH payments:</b>	9007433-9007455		
Payroll Direct Deposit	12/2/2022	\$ 598,859.03	
Payroll Direct Deposit	12/11/2022	\$ 513,070.26	
Payroll Direct Deposit	12/25/2022	\$ 527,850.40	
Other Payments		\$ 1,000,646.60	
<b>ACH Total</b>			<b>\$ 2,640,426.29</b>
<b>Payroll Checks:</b>	12844-12882		
Payroll - Regular	12/2/2022	\$ 3,620.34	
Payroll - Regular	12/15/2022	\$ 3,842.10	
Payroll - Regular	12/30/2022	\$ 3,511.46	
<b>Payroll Check Total</b>			<b>\$ 10,973.90</b>
<b>Total Warrants Issued for December 2022</b>			<b>\$ 8,443,067.53</b>

**ATTACHMENTS:**

1. Fund List  
<https://banningca.gov/DocumentCenter/View/12066/Att-1-Fund-List>
2. Warrant Report December 2022  
<https://banningca.gov/DocumentCenter/View/12067/Att-2-Warrant-Report-December-2022>
3. Warrant Report Detail December 2022  
<https://banningca.gov/DocumentCenter/View/12064/Att-3-Warrant-Report-Detail-December-2022>
4. Voided Check Log, Payroll Log & Registers – December 2022  
<https://banningca.gov/DocumentCenter/View/12065/Att-4-Voided-Check-Log-Payroll-Log-Payroll-Registers>

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  
Alejandro Geronimo, City Treasurer

**PREPARED BY:** Lincoln Bogard, Administrative Services Director  
A'ja Wallace, Deputy Finance Director

**MEETING DATE:** January 24, 2023

**SUBJECT:** Receive and File Cash, Investments and Reserve Report for the  
Month of December 2022

### **RECOMMENDATION:**

That City Council receive and file Cash, Investment and Reserve Report for **December 31, 2022** in accordance with [California Government Code Section 53646](#).

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

Description		Prior Month	Current Month
<b>Funds Under Control of the City</b>			
Cash			
Cash on Hand	\$	4,055.00	\$ 4,055.00
Checking and Savings Accounts	\$	6,137,320.81	\$ 5,803,757.65
Investments			
LAIF	\$	32,020,022.02	\$ 40,020,022.02
Brokerage	\$	27,763,410.09	\$ 18,000,012.04
<b>Total Funds Under Control of the City</b>	<b>\$</b>	<b>65,924,807.92</b>	<b>\$ 63,827,846.71</b>
<b>Funds Under Control of Fiscal Agents</b>			
US Bank			
Restricted Bond Project Accounts	\$	12,342,028.83	\$ 11,801,953.23
Restricted Bond Accounts	\$	4,820,099.40	\$ 4,820,100.16
Union Bank & SCPPA			
Restricted Funds	\$	4,273,369.70	\$ 4,112,962.31
<b>Total Funds Under Control of Fiscal Agents</b>	<b>\$</b>	<b>21,435,497.93</b>	<b>\$ 20,735,015.70</b>
<b>Total Funds</b>	<b>\$</b>	<b>87,360,305.85</b>	<b>\$ 84,562,862.41</b>

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

Description	Prior Month	Current Month
<b>Total Funds</b>	<b>\$ 87,360,305.85</b>	<b>\$ 84,562,862.41</b>
Restricted Funds	\$ 39,530,357.15	\$ 38,919,868.99
Assigned Funds - Specific Purpose	\$ 4,751,497.77	\$ 4,751,497.77
Committed Funds - Specific Purpose	\$ 1,500,000.00	\$ 1,500,000.00
Fund Balance Reserves	\$ 13,469,579.75	\$ 13,469,579.75
<b>Total Restricted, Assigned, Committed and Reserve</b>	<b>\$ 59,251,434.67</b>	<b>\$ 58,640,946.51</b>
<b>Operating Cash - Unrestricted Reserves</b>	<b>\$ 28,108,871.18</b>	<b>\$ 25,921,915.90</b>
Less Accounts held in Investments	\$ 27,763,410.09	\$ 18,000,012.04
Liquid Cash	\$ 345,461.09	\$ 7,921,903.86

**ATTACHMENTS:**

1. Cash, Investment and Reserve Report December 2022  
<https://banningca.gov/DocumentCenter/View/12071/Att-1-Cash-Investment-and-Reserves-December-2022>
2. Investment Report  
<https://banningca.gov/DocumentCenter/View/12068/Att-2-Investment-Report-December-2022>
3. City of Banning Broker Investment Report  
<https://banningca.gov/DocumentCenter/View/12069/Att-3-City-of-Banning-Broker-Report>
4. LAIF Market Valuation Report  
<https://banningca.gov/DocumentCenter/View/12070/Att-4-LAIF-Market-Valuation-December-2022>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Laurie Sampson, Assistant City Manager  
Maria Vargas, Police Assistant II

**MEETING DATE:** January 24, 2023

**SUBJECT:** Receive and File Police Department Statistics for the Month of December 2022

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**RECOMMENDATION:**

Receive and file Police Department statistics for the month of December 2022

**BACKGROUND:**

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

**ATTACHMENT:**

1. Police Statistics for December 2022  
<https://banningca.gov/DocumentCenter/View/12072/December-Stats->

Approved by:

Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Laurie Sampson, Assistant City Manager  
Todd Hopkins, CALFIRE Division Chief

**MEETING DATE:** January 24, 2023

**SUBJECT:** Receive and File Fire Department Statistics for the Month of November 2022, December 2022 and Year End 2022

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**RECOMMENDATION:**

Receive and file Fire Department statistics for the months of November and December 2022 and Year End 2022.

**BACKGROUND:**

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

**FISCAL IMPACT:**

None

**ATTACHMENT:**

1. Fire Statistics for November 2022  
<https://banningca.gov/DocumentCenter/View/12074/Banning-November-2022-Fire-Report>
2. Fire Statistics for December 2022  
<https://banningca.gov/DocumentCenter/View/12073/Banning-December-2022-Fire-Report>
3. Fire Statistics for Year End 2022  
<https://banningca.gov/DocumentCenter/View/12075/Banning-2022-Fire-Report>

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:** January 24, 2023

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

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### **RECOMMENDATION:**

This monthly update is informational only; receive and file.

### **BACKGROUND:**

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

### **FISCAL IMPACT:**

None

### **ATTACHMENT:**

1. CIP Project List  
<https://banningca.gov/DocumentCenter/View/12076/Att-1-CIP-Update-January-2023>

Approved by:

Douglas Schulze  
City Manager





## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Doug Schulze, City Manager

**PREPARED BY:** Lincoln Bogard, Finance Director

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-17, Approving an Agreement for Fiduciary Advisory Services with Burnham Gibson for the 457 Plans Offered to City Employees

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### **RECOMMENDATION:**

Adopt Resolution 2023-17 to enter into an agreement with Burnham Gibson Wealth Advisors, Inc. as a fiduciary advisor and to administer the City's non-CalPERS 457 Plans.

### **BACKGROUND:**

The Finance department and Human Resources department have been in talks with Burnham regarding the possibility of taking over the fiduciary capacity relating to the City's non-CalPERS 457 Plans. The City offers 457 Plans to its employees that are funded through employee contributions and are similar to private sector 401 Plans. Most municipalities only offer one 457 Plan, while the City offers three. As a fiduciary, the City should work to ensure not only a diverse offering of funds, but also to attempt to maximize returns in those offerings when compared to similar funds.

### **JUSTIFICATION:**

Burnham approached Finance with a strong analysis of underperforming portfolio holdings and ways to significantly increase employee returns for investments in their 457 Plans. The City currently has two non-CalPERS 457 Plans, and many investments are significantly underperforming the market with at least one fund in the lowest ten percent of all funds in its category. The City also offers at least one investment fund in all three 457 Plans with varying fee structures, which results in different employees obtaining different returns on the same investment.

If we chose to go forward with Burnham as the fiduciary advisor for the City's two non-CalPERS plans, they plan to go out to a Request for Proposal (RFP) to choose a custodian for those plans and combine them together to reduce fees. Burnham also analyzes returns quarterly and adjusts fund lineups to ensure that employee returns are maximized within the types of funds they choose to invest. Burnham will also offer

financial advisory appointments with City staff to ensure that they are investing appropriately according to where they are on their retirement planning journey. Burnham is confident that with proper management, more employees will choose to move from the CalPERS 457 Plan to obtain better financial returns. Their advisor provided staff with an extremely thorough analysis of past and current returns and the benefits of their services. While past results are not a guarantee of future performance, investment advisory services are a powerful tool to maximize returns and plan ahead for retirement goals.

**FISCAL IMPACT:**

Burnham does charge a one-half percent (0.5%) fee per year on the portfolio managed. Currently, the two non-CalPERS 457 Plans have total combined assets of approximately \$3 million, which equates to an annual advisory fee of \$15,000. Most managed portfolios for private investors charge at least one percent (1.0%). Analysis performed suggests that this will be more than completely offset by the managed plan returns. The goal would be to conduct the RFP and offer a new lineup to employees by July 1, 2023. Generally, the management fee is passed on to plan participants; however, staff recommends that the City pay the fee until the new offerings are in place. That equates to a City cost of \$7,500.

<u>Year</u>	<u>Estimated Amount</u>
2022/2023	\$7,500

**ALTERNATIVES:**

1. Adopt Resolution 2023-17 without changes.
2. Adopt Resolution 2023-17 with modifications.
3. Do not adopt Resolution 2023-17 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-17  
<https://banningca.gov/DocumentCenter/View/12078/Att-1-Resolution-2023-017-Burham-Gibson-457-Plans>
2. Burnham Gibson Services Presentation  
<https://banningca.gov/DocumentCenter/View/12077/Att-2--Burnham-Gibson-Services-Presentation>

Approved by:

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



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Jennifer Jackson, Grants Coordinator

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-18, Authorizing the Department of Water Resources Urban Community Drought Relief Grant Applications, Acceptance and Execution for the Streetscapes and City Properties Water Conservation, Turf Replacement and Irrigation Improvements Projects

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### **RECOMMENDATION:**

City Council adopt Resolution 2023-18 approving the following:

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

### **BACKGROUND:**

In June 2022, the California legislature amended Budget Act of 2021 (Stats. 2021, ch. 240, § 80) to allocate an additional \$545 million to the California Department of Water Resources (DWR) to award grants for drought relief. These grants are intended to provide water to communities that face the loss or contamination of their water supplies, to address immediate impacts on human health and safety, to secure the future of California's water supply, and to protect fish and wildlife resources.

DWR was allocated \$200 million for Urban Communities, \$75 million for Conservation for Urban Suppliers, \$75 million for Turf Replacement, and \$100 million for the Small Community Drought Relief Program. DWR is combining a portion of the Urban Community,

Conservation for Urban Suppliers, and Turf Replacement Funding into a \$300 million program for Urban Community Drought Relief Funding. Grant solicitation opened in the Fall 2022, and applications are due in January 2023.

The funding guidelines outline multiple types of eligible projects, including projects that support immediate drought response, drought resilience planning, enhance local supply and climate resilience through source watershed improvements, hauled water, and construction or installation of recycled water projects that provide immediate relief to potable water supplies, and other projects that support immediate drought response. Projects funded under the program must be completed by December 2026.

This grant program also provides special consideration for Disadvantaged and Severely Disadvantaged communities.

**JUSTIFICATION:**

The City plans to submit funding requests for two (2) Water Conservation, Turf Replacement and Irrigation Improvements projects under the Urban Community Drought Relief Program. Both the Streetscapes and City Properties projects will improve drought resiliency and bolster water supplies by conserving drinking (potable) water currently used for irrigation.

The City will remove a total of 203,492 square feet of non-functional turf from eight Streetscape locations (Project 1) and six City Properties (Project 2). Turf will be replaced with drought tolerant plants and permeable decomposed granite hardscaping. Additionally, existing spray irrigation will be replaced with drip irrigation for increased water use efficiency and conservation. Upon completion, the projects will conserve a total of approximately 102.1 acre feet per year (AFY) of potable water, reducing current water use in the project areas by 90%. Both projects will benefit the City's Disadvantaged and Severely Disadvantaged communities, as well as the Severely Disadvantaged communities of the Morongo Reservation.

The City is requesting a total of \$5,515,541 in funding assistance from the Department of Water Resources Urban Community Drought Relief Program for both projects.

**FISCAL IMPACT:**

The City is requesting that DWR waive the 25% non-state cost share requirement since both projects will serve Disadvantaged and Severely Disadvantaged communities; however, the City must provide 25% of the cost share for Grant Administration per the program requirements.

**Project 1 – Streetscapes**

Grant funds requested = \$3,996,518

Water Enterprise/LMD Funds (25% required local match for Grant Administration) = \$10,000

Total Project Cost = \$4,006,518

Project 2 – City Properties

Grant funds requested = \$1,519,023

Water Enterprise Funds (25% required local match for Grant Administration) = \$10,000

Total Project Cost = \$1,529,023

**ALTERNATIVES:**

1. Adopt Resolution 2023-18 as recommended.
2. Do not approve Resolution 2023-18 and provide alternative direction to staff.

**ATTACHMENT:**

1. Resolution 2023-18

<https://banningca.gov/DocumentCenter/View/12079/Att-1-Resolution-2023-18-DWR-Grant-Authorization>

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:** Adam Rush, Community Development Director

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-20, Approving Amendment No. 5 to the Professional Services Agreement (PSA C00608) with Willdan Engineering for Building and Safety Plan Check and Landscape Design Review Services

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### **RECOMMENDATION:**

Adopt Resolution 2023-20, approving Amendment No. 5 to the Professional Services Agreement for Building and Safety Plan Check and Landscape Design Review Services between the City of Banning and Willdan Engineering through October 31, 2023, in an amount not to exceed Six Hundred and Twelve Thousand Dollars (\$612,000.00), which expires in late 2023, unless the City or Consultant desires to exercise the second of two, one-year contract extensions over the three (3) year term, taking the contract time to October of 2024.

### **BACKGROUND:**

Willdan Engineering, Inc. has provided Building & Safety staffing, plan check, and inspection services since October of 2019. The City continues to receive strong permit activity, from residential, commercial, and industrial development. For example, *SoCal-West Coast-Electric* construction two large industrial office buildings on 8<sup>th</sup> and Lincoln. The City recently announced Sketchers will occupy the million square-foot industrial building, located on John St.; and the construction of several hundred new homes in the Atwell master plan residential community, located on Highland Springs.

### **JUSTIFICATION:**

The engagement of these additional services has increased the contract amount above the previously approved financial limits set by the City Council. As such, additional commitment of resources is required; however, all of the Willdan fees are considered a “pass-through” as costs are reimbursed through developer review fees on the plans and permits submitted to the City.

**FISCAL IMPACT:**

The existing contracted amount is for \$2,185,862.50, over a four-year period beginning October 2019. Staff requests an additional \$612,000, that will cover approximately \$96,000 in current payments due and providing approximately \$516,000 for anticipated invoices due and approximately \$20,000.00 in contingency funding:

<u>Year</u>	<u>Estimated Amount</u>
2022/2023	\$612,000

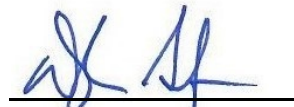
**ALTERNATIVES:**

1. Approve as recommended
2. Do not approve and direct staff to prepare and issue an RFP, requiring all firms to compete for a City contract.

**ATTACHMENTS:**

1. Resolution 2023-20  
<https://banningca.gov/DocumentCenter/View/12083/Att-1-Resolution-2023-20-Willdan-Amendment-No-5>
2. Amendment No. 5 to Willdan Professional Services Agreement  
<https://banningca.gov/DocumentCenter/View/12082/Att-2-Amendment-No-5-to-Willdan-PSA>

Approved by:



Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-21, Approving Amendment No. 5 to the Contract Agreement with Nobel Systems, Inc. for Geographic Information Services (GIS) Services for Fiscal Year 2022/2023 in the Amount of \$32,600 for a Total of \$95,600

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### **RECOMMENDATION:**

Adopt Resolution 2023-21:

1. Approving Amendment No. 5 to the Contract Agreement with Nobel Systems, Inc. for an amount "not to exceed" \$95,600 for Geographic Information System (GIS) services.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Contract Agreement Amendment No. 5 with Nobel Systems, Inc.
3. Authorizing the City Manager or his designee to execute Amendment No. 5 to the Contract Agreement with Nobel Systems, Inc. for Fiscal Year 2022/2023.

### **BACKGROUND:**

The City's Public Works and Community Development Departments have contracted with Nobel Systems, Inc. to provide the City's GIS systems and management of land use assists including sewer, water, fire hydrants, storm drains, zoning, general plan, and various other land use layers that assist in the daily activities of the Departments.

### **JUSTIFICATION:**

The Community Development Departments is requesting an increase in the existing purchase order to facilitate a public access portal for zoning and GIS parcel data. Such a portal will offer Banning residents, patrons, business owners, and developers may research the zoning, land use, and additional parcel data associated with a single parcel or several at a time.



**FISCAL IMPACT:**

The Community Development operational budget will fund the requested increase, Account No. 001-2800-441.33-11 (Professional Services).

<u>Year</u>	<u>Estimated Amount</u>
2022/2023	\$22,600
2023/2024	\$10,000

**ALTERNATIVES:**

1. Adopt Resolution 2023-21 as recommended.
2. Adopt Resolution 2023-21 with modifications.
3. Do not approve Resolution 2023-21 and provide alternative direction to staff.

**ATTACHMENT:**

1. Resolution 2023-21  
<https://banningca.gov/DocumentCenter/View/12081/Att-1-Resolution-2023-21-Nobel-Amendment-5>
2. Contract Amendment No. 5  
<https://banningca.gov/DocumentCenter/View/12080/Att-2-C00641---Nobel-Systems-Amendment-5>

Approved by:



Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-22, Approving A Vendor List for Upfitting and Equipment for New Police Vehicles

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### **RECOMMENDATION:**

Staff recommend City Council adopt Resolution 2023-22, approving a vendor list for upfitting and equipment for new police vehicles to include: Innovative Emergency Equipment, Motorola, and New Image Auto Body.

### **BACKGROUND:**

The Police Department has utilized Innovative Emergency Equipment for modifying vehicles and receives the same cost for upfit as the Riverside County Sheriff's Department. The cost is for seven (7) fully upfitted marked cars and five (5) administratively upfitted cars. Both quotes are included for the total cost as well as mentioned in the Fiscal Impact section.

Motorola radios are the standard for Riverside County and the most reliable of the radios on the market. The Banning Police Department is only purchasing five (5) of the radios as the other seven (7) were already purchased from the Riverside Sheriff's Department at a reduced rate. They are out of the radios which necessitates purchasing through Motorola.

New Image Auto Body will paint the doors and roof of the seven (7) patrol vehicles to standardize the patrol vehicles with the current issue in patrol. This vendor was chosen using purchasing requirements of three (3) quotes with New Image Auto Body being the most affordable quote.

**JUSTIFICATION:**

All of the vendors are either sole source or have gone through the purchasing requirements. These items are required for putting the newly purchased vehicles into the police department fleet.

**FISCAL IMPACT:**

The police department is not asking for any additional funding for these purchases. The funding has already been approved with the additional funding coming from grants specifically set aside for front line police purchases.

The department is using grant funding for the purchase of the radios and any additional costs up to \$15,000 that is already set aside for the police department and utilized for frontline purchases. The money will be appropriated, if approved, during the mid-year adjustments.

<b>Outfitting Costs for Seven (7) New Vehicles</b>	
Uplifting	\$200,418.78
Painting	\$10,673.53
<b>Total Cost</b>	\$211,092.31
<b>Already Appropriated Funding</b>	001-2200-421-90-52
Radios	\$49,305
Potential Runover Contingency	\$15,000
<b>Total Cost</b>	\$64,305
<b>Mid-Year Budget Adjustments</b> (Future Council approval)	148-2200-421-89-53

**ALTERNATIVES:**

1. Adopt Resolution 2023-22 as recommended or with modifications.
2. Do not approve Resolution 2023-22 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-22  
<https://banningca.gov/DocumentCenter/View/12061/Att-1-Resolution-2023-22-Police-Vehicles-Vendor-List>
2. Quotes from Vendors for Described Work  
<https://banningca.gov/DocumentCenter/View/12060/Att-2-Vendor-Quotes>

Approved by:



Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** SUCCESSOR AGENCY BOARD

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Lincoln Bogard, Administrative Services Director  
A'ja Wallace, Deputy Finance Director

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-01SA, Approving the Recognized Obligation Payment Schedule (ROPS) for FY 2023-2024 A and B

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### **RECOMMENDATION:**

Adopt Resolution 2023-01 SA, approving Recognized Obligation Payment Schedule 23-24 A and B for the period of July 2023 through June 2024, \$2,441,282; and approving certain related actions.

### **BACKGROUND:**

Pursuant to Health and Safety Code (the "HSC") § 34172 (a) (1), the Community Redevelopment Agency of the City of Banning was dissolved on February 1, 2012. Consistent with the provisions of the HSC, the City Council of the City of Banning previously elected to serve in the capacity of the Successor Agency. The Oversight Board has been established pursuant to HSC § 34179 to assist in the wind-down of the dissolved redevelopment agency.

Per HSC § 34177 (o) (1), the Successor Agency is required to prepare a ROPS before each twelve-month fiscal year period. Pursuant to HSC § 34180 (g), Oversight Board approval is required for the establishment of each ROPS. Pursuant to HSC § 34177 (o) (1), an Oversight Board-approved ROPS 23-24 A and B for the period of July 1, 2023 through June 30, 2024 must be submitted to the State Department of Finance, State Controller's Office and to the County Auditor-Controller not later than February 1, 2023. The Oversight Board will approve the establishment of ROPS 23-24 A and B.

The Successor Agency staff has prepared the proposed Recognized Obligation Payment Schedule for the period of July 1, 2023 through June 30, 2024 ("ROPS 23-24"), substantially in the form shown in Exhibit "A", attached hereto and incorporated herein by this reference.

The Successor Agency staff has prepared an administrative budget for the fiscal period commencing on July 1, 2023 and continuing through June 30, 2024 ("FY 2023-24 Administrative Budget"), substantially in the form shown in Exhibit "B", attached hereto and incorporated herein by this reference.

Successor Agency is entitled to an administrative cost allowance (the "Administrative Cost Allowance") pursuant to Health and Safety Code Sections 34171(b) and 34183(a)(3) in the approximate amount of [\$250,000] for the 2023-24 fiscal year of which approximately [\$125,000] will be disbursed July 1, 2023 and approximately [\$125,000] will be disbursed January 2, 2024.

**JUSTIFICATION:**

At its meeting on January 19, 2023, the Countywide Oversight Board for the Successor Agency ("Oversight Board") to the dissolved Community Redevelopment Agency of the City of Banning ("Successor Agency") will approve the Fiscal Year 2023-2024 Recognized Obligation Payment Schedule ("ROPS") with the adoption of Resolution TBA (Number To Be Assigned) (Oversight Board Resolution).

**FISCAL IMPACT:**

Per HSC § 34177, the Successor Agency is legally required to continue to make payments due for enforceable obligations. The Oversight Board has approved the establishment of ROPS 23-24 A and B, which will ensure that the Successor Agency has the authority to continue to pay its enforceable obligations.

**ALTERNATIVES:**

1. Adopt Resolution 2023-01 SA as recommended.
2. Adopt Resolution 2023-01 SA with modifications.
3. Do not approve Resolution 2023-01 SA and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-01 SA with Exhibit A – ROPS 23-24 City of Banning A & B and Exhibit B Administrative Budget  
<https://banningca.gov/DocumentCenter/View/12084/Att-1-Resolution-2023-01-SA-ROPS-23-24>
2. Countywide Oversight Board Resolution  
<https://banningca.gov/DocumentCenter/View/12085/Att-2-TBA-Countywide-OB-Resolution-Approving-ROPS-Budget>

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  
Holly Stuart, Public Works Program Manager

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-19, Directing Staff to Proceed with Proposition 218 Notifications and Schedule a Public Hearing Regarding Proposed Rate Adjustments in Connection with the Service Charge for the Collection, Transportation, Recycling and Disposal of Solid Waste and Making a Finding of Exemption under CEQA in Connection Therewith

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### **RECOMMENDATION:**

Adopt Resolution 2023-19:

1. Directing staff to mail Proposition 218 notifications in connection with automatic annual adjustments to the collection, transportation, recycling and disposal of solid waste service rates, effective on July 1, 2023 and each July 1 thereafter through July 1, 2027, pursuant to an updated methodology for calculating the adjustments ("Rate Adjustments").
2. Setting a Public Hearing for April 11, 2023 regarding the Rate Adjustments.
3. Making a Finding that the initiation of proceedings for the proposed Rate Adjustments is exempt from CEQA.

### **BACKGROUND:**

On April 27, 2021, City Council approved a new solid waste franchise agreement with Waste Management of the Inland Empire (Waste Management) for Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection, Transportation, Recycling and Disposal Services (Franchise Agreement), effective July 1, 2021. The Franchise Agreement establishes many services provided to the community and helps ensure that the City complies with State solid waste regulations. The term of the Franchise Agreement is valid through June 30, 2041.

The Proposition 218 (Prop 218) Implementation Act allows for scheduled adjustments as well as automatic annual adjustments for a five-year period, without additional annual Prop 218 notice and protest proceedings, if such automatic adjustments are in

accordance with changes in the Consumer Price Index (CPI) or some other formula, and the methodology for that formula is set forth in the Prop 218 notice.

On June 22, 2021, residential and commercial solid waste collection service rates associated with the Franchise Agreement were adopted by the City Council following a noticed public hearing conducted in accordance with Prop 218. The Prop 218 process included mailing Prop 218 notices to rate payers and property owners which provided public hearing information, an explanation of the proposed rates, including scheduled rate increases and automatic annual adjustments, and instructions for submitting a protest. The notification identified that there would be scheduled residential rate increases to the monthly rates in the amount of \$1.36 effective July 1, 2022 and in the amount of \$1.36 effective July 1, 2023. In addition, the notification identified that there would be automatic annual adjustments for increases in operational costs. A public hearing was held at which time the City Council considered all protests and objections concerning the rates. A majority protest, as that term is further defined and explained below, was not received, and the rates were approved by the City Council.

The rates approved by the City Council authorized scheduled annual increases to the monthly rate for residential accounts in the amount of \$1.36 effective July 1, 2022, and in the amount of \$1.36 effective July 1, 2023. These scheduled rate increases reflect the cost of implementing new residential organic programs that are required by Senate Bill (SB)1383, The Short-Lived Climate Pollutant Reduction Act, and are included as part of the bundled residential collection services. Such scheduled rate increases are referred to as the “SB 1383 Component” of the residential monthly rates. In addition, the rates approved by the City Council authorized annual rate adjustments beginning on July 1, 2022 and each July thereafter through July 1, 2025 to the other components that make up the monthly residential and commercial rates, which include the following: 1) Service Component; 2) Disposal Component; 3) Organics Waste Processing Component; and 4) Recycling Processing Component. The 2021 Prop 218 notice explained that the annual adjustments were based on the percentage increase of the Consumer Prices Index (CPI-U) published by the U.S. Department of Labor, Bureau of Labor Statistics, for All Urban Consumers in the Riverside-San Bernardino-Ontario area, using the change in the 12-month annual average of CPI-U index values between the January to December period of the prior year (the previous year), and the January to December period of the year before the prior year (the prior previous year). The 2021 Prop 218 notice further explained that the annual adjustment would be at least one percent (1.00%) (the “Floor”) and could not exceed four percent (4.00%) (the “Cap”). In the event that the annual CPI adjustment exceeds the Cap or is less than the Floor, the amount above the Cap or below the Floor would be carried over into any succeeding year until such time it may be applied without violating the Cap or Floor limits.

### **JUSTIFICATION:**

As permitted by the Franchise Agreement, Waste Management requested an annual rate adjustment for Fiscal Year 2022/2023 (July 1, 2022 – June 30, 2023).

Pursuant to the Franchise Agreement, Waste Management requested that the Service Component; Disposal Component;) Organics Waste Processing Component; and Recycling Processing Component be adjusted. In evaluating Waste Management's request for a rate increase it was determined that the methodology for adjusting these four components of the solid waste rates, as set forth in the 2021 Prop 218 notice and approval, did not align with the methodology for adjusting the four components set forth in the Franchise Agreement. Therefore, the annual increase for Fiscal Year 2022/2023 for these components was limited to an overall 4% increase in accordance with CPI Cap as described in the Prop 218 notice even though Waste Management was entitled to a greater increase pursuant to the Franchise Agreement.

In order to avoid delays associated with undertaking a new Prop 218 notice process, Waste Management agreed to limit the overall rate increase for the four components (Service, Disposal, Organics, and Recycling) for Fiscal Year 2022/2023 to 4%, in accordance with the methodology in the five-year Prop 218 notice provided in 2021, although such rate adjustment would not be consistent with the terms of the Franchise Agreement or the rate increase for which Waste Management applied. Waste Management agreed to the lower rate increase for Fiscal Year 2022/2023 based on its understanding that a future Prop 218 process, including holding a noticed public hearing, would be undertaken in sufficient time to implement the rate adjustment methodology identified in the Franchise Agreement for Fiscal Year 2023/2024.

As a result, on May 24, 2022, the City Council approved a solid waste rate increase within the approved parameters of the 2021 Prop 218 notice (4%) and subsequently approved certain corrections on that became effective September 1, 2022. In order to now update the methodology for calculating future annual solid waste fee adjustments and increases in accordance with the Franchise Agreement, staff is seeking City Council approval to pursue a Prop 218 notice and protest process in an effort to have actions completed prior to the next permitted rate increase for Fiscal Year 2023/2024 (July 1, 2023 – June 30, 2024).

Essentially, the previously approved solid waste increases did not consider the different methodologies set forth in the Franchise Agreement for calculating allowable adjustments to the individual rate components. The Prop 218 approval only permitted an overall rate increase to the Service, Disposal, Organics, and Recycling components based on CPI, subject to the amount above the Cap or below the Floor described above being carried into a succeeding year until such time it could be applied without violating the Cap or Floor limits.

Pursuant to the Franchise Agreement, this methodology based on the CPI (with a Floor and Cap) should be applied to the Service Component. In addition, this CPI methodology (with a Floor and Cap) should also be used to adjust the Disposal, Organics, and Recycling Components but only for changes in tipping fees or processing fees, as applicable, charged at the disposal, recycling processing, or organic processing facilities used by Waste Management if Waste Management or its affiliates own and/or operate the facility, and the tipping/processing fee is not set or adjusted by a public agency.



In all other circumstances (e.g., Waste Management uses a facility owned by a third party), the applicable component (Disposal, Organics, or Recycling) shall be adjusted using the change in the per ton tip fee or per ton processing fee charged between the previous year and the prior previous year for each applicable facility. A weighted average calculation will be used with multiple facilities are used for a single component (Disposal, Organic, or Recycling). The City shall then add these sums together to determine the total change in the per ton tip/processing fees for each component (Disposal, Organics, or Recycling).

To correctly reflect the methodology set forth in the Franchise Agreement for adjusting the Disposal, Organics, and Recycling components, and to comply with the requirements for a Prop 218 five-year notice, staff recommends that the City Council authorize staff to initiate a Prop 218 process, with an updated Prop 218 notification that reflects the methodologies described above. As more fully explained below, staff recommends that the Prop 218 notification be sent only to property owners, and not to customers that are not property owners.

The City Council may approve the Rate Adjustments following the public hearing if a majority protest is not filed. The California Constitution's provisions for Prop 218 notices allows for notices of the hearing to be sent only to the property owners who would be subject to the property related fee or charge. In another recent Prop. 218 process undertaken by the City in connection with an adjustment to water and wastewater rates, the City provided notice not only to property owners but also to customers and then counted majority protests in two different ways; one based on property owner protests and another based on customer protests. This resulted in unnecessary work for staff and public confusion as to how the majority protest process worked and how protests were counted. That dual counting method was not required by law. Therefore, for this upcoming Prop 218 notice for the proposed solid waste Rate Adjustments, staff is proposing to send the Prop 218 notices only to property owners and then determine if there is a majority protest based on the protests filed by property owners. This will make the process more understandable to the public and streamline the process for determining the existence of a majority protest.

In summary, if the Prop 218 notification is sent only to property owners, a majority protest against the proposed Rate Adjustments will exist if at the end of the public hearing, there are written protests against the Rate Adjustments submitted, and not withdrawn, by a majority of owners of the parcels subject to the solid waste fee. No more than one written protest per parcel of property will be counted in calculating a majority protest. The City Council cannot adopt the Rate Adjustments if a majority protest exists.

If the Rate Adjustments are approved by the City Council, the rates may be adjusted in accordance with the Franchise Agreement on July 1, 2023 and each July 1 thereafter through July 1, 2027, without undertaking another Prop 218 process. These automatic adjustments will be in addition to the scheduled adjustment to the SB 1383 Component of the residential rates of \$1.36 on July 1, 2023.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

City staff has evaluated the proposed Rate Adjustments for purposes of compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and has determined that the proposed Rate Adjustments is an activity covered by the common sense exemption in that it can be seen with certainty that there is no possibility that the increase in solid waste service rates may have a significant effect on the environment because the rate changes only address the cost of an existing service provided to the public and not the commencement of a new service or program. Accordingly, the proposed action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

**FISCAL IMPACT:**

The Refuse Enterprise Fund, Account No. 690-9600-453.23-01 (Advertising/Publishing) will be utilized to cover the costs associated with printing and mailing the Prop 218 notifications. The estimated printing and mailing costs is \$15,000.

**ALTERNATIVE:**

Reject Resolution 2023-19. If rejected, pursuant to the Franchise Agreement, Waste Management shall have the right to dispute the denial action by pursuing measures outlined in the Franchise Agreement.

**ATTACHMENTS:**

1. Resolution 2023-19  
<https://banningca.gov/DocumentCenter/View/12087/Att-1-Resolution-2023-19-Prop-218-Solid-Waste-Rates>
2. Draft Public Hearing Notice and Proposition 218 Protest Form  
<https://banningca.gov/DocumentCenter/View/12086/Att-2-Prop-218-Notice-Solid-Waste-2023>

Approved by:



Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Laurie Sampson, Assistant City Manager

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-14, Approving a Lease Agreement with The Banning Chamber of Commerce on Behalf of the Banning Community Gardens @ 22<sup>nd</sup> Street

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### **RECOMMENDATION:**

Staff recommends the City Council adopt Resolution 2023-14:

1. Approving a Lease Agreement with the Banning Chamber of Commerce on behalf of the Banning Community Gardens @ 22<sup>nd</sup> Street in the amount of \$1 per year for a term of 5 years; and
2. Authorizing the City Manager or his designee to execute the Lease Agreement.

### **BACKGROUND:**

On April 11, 2017, the City Council adopted Ordinance 1509 to allow the establishment of community gardens. On June 14, 2022, the City Council passed Resolution 2022-82 authorizing the use of a portion of APN 538-120-011 (Exhibit "A" attached to Lease Agreement) for the purpose of establishing a community garden.

### **JUSTIFICATION:**

The Banning Chamber of Commerce has sponsored a community garden group identified at Banning Community Gardens @ 22<sup>nd</sup> Street. The group has established leadership and a plan for the community garden and now wishes to enter into a Lease Agreement with the City of Banning for the use of said property.

### **FISCAL IMPACT:**

None

### **ALTERNATIVES:**

1. Adopt Resolution 2023-14 as recommended.
2. Adopt Resolution 2023-14 with modifications.
3. Do not approve Resolution 2023-14 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-14  
<https://banningca.gov/DocumentCenter/View/12090/Att-1-Resolution-2023-14-Community-Garden-Lease-Agreement>
2. Draft Lease Agreement  
[https://banningca.gov/DocumentCenter/View/12091/Att-2-Banning---Lease-Agreement-Banning-Chamber-of-Commerce-Final\\_1](https://banningca.gov/DocumentCenter/View/12091/Att-2-Banning---Lease-Agreement-Banning-Chamber-of-Commerce-Final_1)
3. Ordinance 1509  
<https://banningca.gov/DocumentCenter/View/12088/Att-3-Ordinance-No-1509>
4. Resolution 2022-82  
<https://banningca.gov/DocumentCenter/View/12089/Att-4-Resolution-No-2022-082>

Approved by:

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Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Laurie Sampson, Assistant City Manager

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-15, Amending the Reimbursement Policy for the Expenses of Elected and Appointed Officials

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### **RECOMMENDATION:**

The City Council adopt Resolution 2023-15, amending the Policy entitled "Reimbursement Policy of Elected and Appointed Officials."

### **BACKGROUND:**

California Assembly Bill (AB) 1234, a law applicable to cities, counties and special districts went into effect on January 1, 2006. This law requires, among other things, that local agencies adopt an expense reimbursement policy specific to its elected and appointed officials. The Council adopted a Policy on May 30, 2006. On March 24, 2009, this Policy was updated to include more specific language regarding reimbursements.

### **JUSTIFICATION:**

While most of the content of this Policy has remained intact with minor language updates, primarily Section D: Annual Allocation of Funding for Reimbursement Expenses has been deleted. This requirement has resulted in either lost opportunities for Councilmembers to attend important events or operating outside of this policy.

### **FISCAL IMPACT:**

None

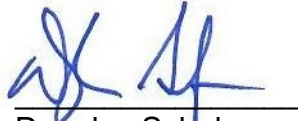
### **ALTERNATIVES:**

1. Adopt Resolution 2023-15 as recommended.
2. Adopt Resolution 2023-15 with modifications.
3. Do not approve Resolution 2023-15 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-15  
<https://banningca.gov/DocumentCenter/View/12095/Att-1-Resolution-2023-15-Amending-the-Reimbursement-Policy>
2. Resolution 2009-24, Amending the Reimbursement Policy for the Expenses of Elected and Appointed Officials  
<https://banningca.gov/DocumentCenter/View/12093/Att-2-CC-Resolution-No-2009-024>
3. Resolution 2006-55, Establishing a Reimbursement Policy for the Expenses of Elected and Appointed Officials  
<https://banningca.gov/DocumentCenter/View/12094/Att-3-CC-Resolution-No-2006-055>

Approved by:

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Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Lincoln Bogard, Administrative Services Director  
A'ja Wallace, Deputy Finance Director

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of City Council Resolution 2023-16, Utility Authority Resolution 2023-01 and Successor Agency Resolution 2023-02, Approving Amendments to the Fiscal Year 2022-23 Budgets for Encumbrance Carryovers and Continuing Appropriations of Unexpended Fiscal Year 2021-22 Appropriations

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### **RECOMMENDATION:**

Adopt Resolutions 2023-16, 2023-01 UA and 2023-02 SA:

1. Approving amendments to the Fiscal Year 2022-23 Budgets for encumbrance carryovers and continuing appropriations of unexpended Fiscal Year 2021-22 appropriations; and
2. Authorizing the Administrative Services Director or designee, to make the necessary budget adjustments, appropriations, and transfers.

### **BACKGROUND:**

The two-year budget for fiscal years 2022-23 and 2023-24 was adopted on June 28, 2022.

### **JUSTIFICATION:**

At the end of fiscal year 2021-22, in many cases, funds had been encumbered (i.e. committed via purchase order toward a specific item or project) but not yet expended. These items were included in the fund balances as encumbered items and roll into the new fiscal year in order to complete the project or order. In some cases, there were approved appropriations at the end of the fiscal year not eligible for encumbrance, these items were included as budget adjustments or continuing appropriations. Continuing appropriations and encumbrances were accounted for in available fund projections and thus will not impact previously presented 2022-23 fund balances. Allowing for the carryover of unexpended funds that are earmarked for specific purposes facilitates meeting the City's budgetary goals.

**FISCAL IMPACT:**

Resolution 2023-16	Operating or Capital	Sum of Budget Amount
City Total (Other than GF)	Capital	7,783,525.85
City Total (Other than GF)	Operating	582,853.47
City Total (Other than GF)		8,366,379.32
General Fund (Subset)	Capital	293,258.74
General Fund (subset)	Operating	863,370.90
General Fund Total		1,156,629.64
<b>CITY TOTAL</b>		<b>9,523,008.96</b>
Resolution 2023-02 SA		
<b>SA Total</b>	Capital	<b>160,424</b>
Resolution 2023-01 UA		
<b>UA Total</b>	Capital	<b>1,800,178.69</b>
	Operating	<b>1,771,115.04</b>
<b>Grand Total</b>		<b>13,254,726.53</b>

**ALTERNATIVES:**

1. Adopt Resolutions 2023-16, 2023-01 UA and 2023-02 SA as recommended.
2. Adopt Resolutions 2023-16, 2023-01 UA and 2023-02 SA with modifications.
3. Do not approve Resolutions 2023-16, 2023-01 UA and 2023-02 SA and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-16  
<https://banningca.gov/DocumentCenter/View/12098/Att-1-Resolution-2023-16-Continuing-Appropriations>
2. Resolution 2023-01UA  
<https://banningca.gov/DocumentCenter/View/12099/Att-2-Resolution-2023-01-UA-Continuing-Appropriations>
3. Resolution 2023-02SA  
<https://banningca.gov/DocumentCenter/View/12100/Att-3-Resolution-2023-02-SA-Continuing-Appropriations>
4. List of Continuing Appropriations by Account Number, PO Number and Resolution  
<https://banningca.gov/DocumentCenter/View/12097/Att-4-List-of-Continuing-Appropriations>



Approved by:

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Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**MEETING DATE:** January 24, 2023

**SUBJECT:** Consideration of Resolution 2023-23, Approving an Agreement for Professional Services for Delivery of Wrap Around Services to Clients of Opportunity Village Temporary Emergency Shelter by and between City of Banning and Faith In Action of the San Geronio Pass and Authorizing the City Manager to Execute the Agreement

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### **RECOMMENDATION:**

Adopt Resolution 2023-23, approving a professional services agreement with Faith in Action for wrap around services for clients at the Opportunity Village Homeless Shelter for an amount not to exceed \$104,000, and authorizing the City Manager to execute the Agreement on the City Council's behalf.

### **BACKGROUND:**

The City Council previously authorized termination of security services and the addition of four (4) homeless shelter workers at Opportunity Village Temporary Emergency Shelter. Faith in Action submitted a proposal to fulfill some of the staffing responsibilities at Opportunity Village after learning of the Council action. The proposal has been reviewed and deemed to be a cost-effective option for providing wrap-around services to clients of Opportunity Village.

Opportunity Village consists of 40 shelter beds and moving clients from the shelter to more permanent housing within a ninety-day timeframe requires consistent follow through. In addition, daily shelter operational duties also involves significant time. The proposed support from Faith in Action will improve the effectiveness of Opportunity Village so more clients can be moved to housing, obtain benefits, and become employed.

### **JUSTIFICATION:**

It is estimated that approximately 100 – 125 individuals are living unsheltered in Banning. Moving unsheltered homeless into the temporary emergency shelter helps to provide some stability and gets unsheltered homeless off the streets. Opportunity Village has been at capacity since it opened in April 2022.

**FISCAL IMPACT:**

The professional services agreement is a one-year term. Funding is proposed from grant proceeds the City was recently awarded. Grant proceeds will provide an addition \$120,000 for Opportunity Village expenses.

<u>Year</u>	<u>Estimated Amount</u>
2022/2023	\$104,000

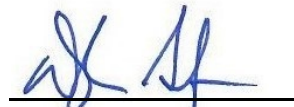
**ALTERNATIVES:**

1. Adopt Resolution 2023-23 as recommended.
2. Adopt Resolution 2023-23 with modifications.
3. Do not adopt Resolution 2023-23 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-23  
<https://banningca.gov/DocumentCenter/View/12118/Att-1-Resolution-2023-23-PSA-with-Faith-in-Action>
2. Proposed Professional Services Agreement with Faith in Action of the San Geronio Pass  
<https://banningca.gov/DocumentCenter/View/12119/Att-2-PSA-for-Wrap-Around-Services-to-Clients-of-Opportunity-Village-Temporary-Emergency-Shelter>

Approved by:



Douglas Schulze  
City Manager