



AGENDA

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

May 9, 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).

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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 – *Ryan Houssein of Calvary Chapel Sweet Hills in Banning*
- 1.2. Pledge of Allegiance
- 1.3. Roll Call

2. AGENDA APPROVAL

- 2.1. Approve Agenda

3. PRESENTATION(S)

3.1. Proclamation – Kids to Parks Day.....	8
3.2. Proclamation – Drinking Water Week.....	9

4. REPORT ON CLOSED SESSION

None

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

6.1.	Approval of Minutes of the April 25, 2023 City Council Meetings.....	10
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6.3.	Consideration of Resolution 2023-75, Approving Amendment No. 4 to the Landscape Operation and Maintenance Contract for Landscape Maintenance District No. 1 with Artistic Maintenance, Inc. of Lake Forest, California for Fiscal Year 2023/2024 in the Amount of \$56,136.....	13
6.4.	Consideration of Resolution 2023-76, Adopting an Amended Conflict of Interest Code Containing Revised Designated Positions and Disclosure Categories, and Repealing Resolution 2022-95.....	17
6.5.	Parks and Recreation Report of Monthly Activities Through the Third Quarter of Fiscal Year 2022/2023 – March 2023.....	19
6.6.	Consideration of Resolution 2023-78, Awarding a Construction Agreement for Project No. 2023-01, “Street Improvement at Various Locations” to Hardy & Harper, Inc. of Lake Forest, CA in the Amount of \$1,608,000 and Establishing a Total Project Budget of \$1,768,800 and Rejecting All Other Bids.....	21
6.7.	Consideration of Resolution 2023-80, Establishing Rates for Fiscal Year 2023/2024 for the Service Charge for Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection, Transportation, Recycling and Disposal Services, and Making a Finding of Exemption Under the California Environmental Quality Act	24
6.8.	Consideration of Resolutions 2023-82 and 2023-83, Accepting a Permanent Easement for Traffic Signal and Public Utility Purposes and an Irrevocable Offer of Dedication in Connection with the Apex Street Right-of-Way.....	29
6.9.	Accept an Easement from TriPointe Homes for Electric Utility Purposes on Accessor's Tract Map No. 37389-2 within the Atwell Development for the Maintenance of the City-Owned Electric Distribution System.....	34
6.10.	Consideration of Resolution 2023-85, Approving a Revised Cooperative Agreement between the City of Banning, Riverside County Flood Control & Water Conservation District, and KB Homes for the Construction of the East Gilman Home Channel A, Stage 1 and East Gilman Home Debris Basin, Stage 1, and Repealing Resolution 2023-30.....	36
6.11.	Consideration of Resolution 2023-88, Awarding a Professional Services Agreement to Engineering Resources of Southern California (ERSC) in the Amount of \$550,000 for Plan Check, Inspection and related Administrative Services through Fiscal Year 2023/24 with the Option to Renew for Four Additional Single Years.....	39
6.12.	Consideration of Resolution 2023-89, Approving the Transfer of Title of a 1996 Wells Cargo Trailer from the Banning Police Department to the Banning Police Officers Association	42

7. PUBLIC HEARING(S)

7.1. Consideration of Resolution 2023-84, Making a Determination of Exemption under CEQA Guidelines Section 15162 (Subsequent EIRS and Negative Declarations) and Approving a 12-month Extension of Time for Tentative Tract Map 36710 and Variance 19-3001, a Proposal to Subdivide 10.6-acres of Land into 39 Single-Family Residential Lots and Three Lettered Lots and a Variance to Allow a Reduced Lot Size and Dimension for lot 7 Located on the Northwest Corner of East Wilson Street and North Florida Street (APNs 534-183-014, 534-200-004, 534-200-008 and 534-200-047) within the Low Density Residential Zoning District **44**
(Staff Report: Adam Rush, Community Development Director)

Recommendation: Adopt City Council Resolution 2023-84, making a determination that the Project is exempt under Section 15162 (Subsequent EIRS and Negative Declarations) of the California Environmental Quality Act (CEQA) Guidelines and approving a 12-month Extension of Time for Tentative Tract Map 36710, a proposal to subdivide 10.6-acres of land into 39 single-family residential lots and three lettered lots and Variance 19-3001, a proposal to allow a reduced lot size and dimension for lot 7, located on the northwest corner of East Wilson Street and North Florida Street within the Low Density Residential zoning district (the “Project”).

7.2. Consideration of Resolution 2023-86, Approving Tentative Parcel Map 38497 (TPM 22-4004), a Proposed Subdivision of One (1) 1.14-Acre Parcel into Four (4) Single-Family Residential Lots Within The Low Density Residential District, Located on The South Side of W. Wilson Street, Between Fourth Street and Linda Vista Drive, in the City Of Banning, CA 92220 (APN 540-070-006)..... **51**
(Staff Report: Adam Rush, Community Development Director)

Recommendation: Staff recommends that the City Council adopt Resolution No. 2023-86: (1) In accordance with the requirements of the California Environmental Quality Act(CEQA), staff analyzed Tentative Parcel Map No. 38497 and determined thatpursuant to CEQA Section 15315 (Minor Land Divisions), the Project is categorically exempt from the requirements of the California Environmental Quality Act (“CEQA”); and, (2) Approving Tentative Parcel Map No. 38497, subject to Compliance with theConditions of Approval, attached herein.

8. REPORTS OF OFFICERS

8.1. FY 2023-24 Preliminary General Fund Mid-Cycle Budget **58**
(Staff Report: Lincoln Bogard, Administrative Services Director)

Recommendation: Receive and file the FY 2023-24 Preliminary General Fund Mid-Cycle Budget report.

8.2. Consideration of Resolution 2023-77, Approving an Amendment to Employee Supplemental Benefit Plans and Providers **60**

(Staff Report: Lincoln Bogard, Administrative Services Director)

Recommendation: Approve and Adopt Resolution 2023-77 authorizing the amendment for change to employee supplemental benefit plans and providers effective July 1, 2023.

8.3. Consideration of Resolution 2023-81, Approving City Council Standing Committee Policies.....**62**
(Staff Report: Doug Schulze, City Manager)

Recommendation: Adopt Resolution 2023-81, approving City Council Standing Committee Policies.

9. DISCUSSION ITEM(S)

9.1. Animal Shelter Discussion.....**64**
(Staff Report: Doug Schulze, City Manager)

Recommendation: Discussion item only.

10. ITEMS FOR FUTURE AGENDAS

10.1. New Items

10.2. Pending Items:

1. Grow Banning (Sanchez)
2. Potential Grants to Fund Playhouse Bowl Improvements (Sanchez)
3. Committee for Seniors (Gonzales)
4. Food Desert Zoning Overlay (Minjares)
5. Roadside Services (Minjares)
6. Beautification of San Gorgonio Overpass Funding (Gonzales)
7. Update to Elected Official Reimbursement Policy Section D (Wallace)
8. ~~Format of Meeting Minutes/Staff Reports (Flynn) 5/9 Special Meeting~~
9. ~~Revisit the Banning Animal Shelter and Agreement Renewal (Flynn) See Agenda Item 9.1~~
10. Revisit Municipal Code re: Condemnations/Code Enforcement (Flynn)

11. ADJOURNMENT

Next Regular Meeting – May 23, 2023 at 5:00 p.m.

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- Public Comment from Zoom attendees will immediately follow in person comment from members of the public in Council Chambers.
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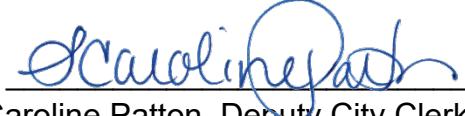
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- Para indicar el deseo de hacer un Comentario Público, debe utilizar la función Levantar la mano. El alcalde no reconocerá a quienes no hayan utilizado la función Levantar la mano.
- Los comentarios públicos de lo que atienden por Zoom seguirán inmediatamente los comentarios en persona de los miembros del público en las Cámaras del Consejo.
- Si no cumple con estas pautas de la comunidad, es posible que lo destituyan por interrumpir la reunión que tiene lugar en las Cámaras del Consejo. Puede volver a unirse a la reunión, pero es posible que lo eliminen por cada violación de estos estándares de la comunidad.
- La función de chat estará deshabilitada para todas las Reuniones del Ayuntamiento en Zoom.

AFFIDAVIT • DECLARACIÓN JURADA

IT IS HEREBY CERTIFIED under the laws of the State of California that the above agenda was posted on the City's website (www.banningca.gov) as well as the Bulletin Board at Banning City Hall, located at 99 E Ramsey Street, Banning, CA 92220 by 5:00 P.M. on the 4th day of May 2023.



Caroline Patton, Deputy City Clerk
Secretario adjunto de la ciudad

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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.

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CONTACT • CONTACTO

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



**CITY OF BANNING
OFFICE OF THE MAYOR**



Proclamation

WHEREAS, May 20, 2023, is the thirteenth *Kids to Parks Day* organized and launched by the National Park Trust held annually on the third Saturday of May; and

WHEREAS, *Kids to Parks Day* empowers kids and encourages families to get outdoors and visit America's parks, public lands and waters; and

WHEREAS, *Kids to Parks Day* will broaden children's appreciation for nature and outdoors; and

WHEREAS, we should encourage children to lead a more active lifestyle to combat issues of childhood obesity, diabetes, hypertension and hypercholesterolemia; and

WHEREAS, the City of Banning continues to offer diverse outdoor programming in our parks, including a five-week soccer clinic for kids of all ages that will run on Saturdays in May and June; and

WHEREAS, the Parks and Recreation Department will be partnering with the Gilman Ranch Hands on Saturday, May 20, 2023, at Gilman Ranch in Banning for their Annual Wild West Days Event.

NOW THEREFORE, the City Council of the City of Banning do hereby proclaim and designate the May 20, 2023, as **KIDS TO PARKS DAY** and urge all citizens to visit Banning Parks and Gilman Ranch on Saturday, May 20, 2023, and throughout the year.

Kids to Parks Day May 20, 2023

in the City of Banning and encourage the citizens of our community to join us in this special observance.



BE IT PROCLAIMED this 9th day of May 2023.

Alberto Sanchez, Mayor



**CITY OF BANNING
OFFICE OF THE MAYOR**



Proclamation

WHEREAS, water is our most valuable natural resource; and

WHEREAS, drinking water serves a vital role in daily life, serving an essential purpose to health, hydration, and hygiene needs for the quality of life our citizens enjoy; and

WHEREAS, tap water delivers public health protection, fire protection, support for our economy, and the quality of life we enjoy; and

WHEREAS, the hard work performed by the entire water sector, designing capital projects, operators ensuring the safety and quality of drinking water or a member of a pipe crew maintaining the infrastructure communities rely on to transport high quality drinking water from its source to consumers' taps; and

WHEREAS, the coronavirus pandemic has shone a light on the importance of drinking water for health, hydration and hygiene needs; and

WHEREAS, we are all stewards of the water infrastructure upon which current and future generations depend; and

WHEREAS, the citizens of our city are called upon to help protect our source waters from pollution, practice water conservation, and get involved with their water by familiarizing themselves with it.

NOW THEREFORE, the City of Banning City Council do hereby proclaim:

Drinking Water Week **May 7 - 13, 2023**

in the City of Banning and encourage the citizens of our community to join us in this special observance.



BE IT PROCLAIMED this 9th day of May 2023.

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: May 9, 2023

SUBJECT: Approval of Minutes of the April 25, 2023 City Council Meetings

RECOMMENDATION:

Approve the minutes of the April 25, 2023 City Council Meetings.

ALTERNATIVES:

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

ATTACHMENTS:

1. Minutes of the April 25, 2023 Special City Council Meeting – Closed Session
https://banningca.gov/DocumentCenter/View/12685/2023-04-25_Minutes_Special-Meeting---Closed-Session
2. Minutes of the April 25, 2023 Regular City Council Meeting – Workshop
https://banningca.gov/DocumentCenter/View/12686/2023-04-25_Minutes_Special-Meeting---Workshop
3. Minutes of the April 25, 2023 Regular City Council Meeting
https://banningca.gov/DocumentCenter/View/12687/2023-04-25_Minutes-Regular-Meeting

Approved by:

A handwritten signature of Douglas Schulze.

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: May 9, 2023

SUBJECT: Approval of Amendment No. 1 to Purchase Order with Williams Scotsman for Office Trailers Located at Opportunity Village for the Amount of \$5,591.81 for a Total Purchase Order Amount of \$63,327.34

RECOMMENDATION:

Staff recommends Council approve the increase to the purchase order for Williams Scotsman in the amount of \$5,591.81 for a total purchase order amount of \$63,327.34.

BACKGROUND:

On June 14, 2022, the Council approved the lease for office trailers to be used by the support staff at Opportunity Village. Williams Scotsman was chosen upon the recommendation of the purchasing staff based on cost and quality of services provided and following all adopted purchasing policies. The original purchase order amount approved is \$57,735.53.

JUSTIFICATION:

The proposal submitted by Williams Scotsman did not include taxes, and therefore, was not included in the request for approval. Staff now requests Council approve the increase to the purchase order for Scotsman William for the lease through July 13, 2023, taxes included.

FISCAL IMPACT:

The increase of \$5,591.81 to the purchase order will be funded by account 810-9700-490.90-59.

ALTERNATIVES:

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

May 9, 2023

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ATTACHMENTS:

1. Lease Agreement

<https://banningca.gov/DocumentCenter/View/12688/Williams-Scotsman-Lease-Agreement>

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
Nate Smith, Deputy Director of Public Works/City Engineer

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-75, Approving Amendment No. 4 to the Landscape Operation and Maintenance Contract for Landscape Maintenance District No. 1 with Artistic Maintenance, Inc. of Lake Forest, California for Fiscal Year 2023/2024 in the Amount of \$56,136

RECOMMENDATION:

Staff recommends that City Council approve the following:

1. Approving Amendment No. 4 to the Contract Agreement with Artistic Maintenance, Inc. of Lake Forest, California for an amount "not to exceed" \$56,136 and to extend the term of the Agreement through June 30, 2024 for the Operation and Maintenance of Landscape Maintenance District ("LMD") No. 1.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to Contract Agreement Amendment No. 4 with Artistic Maintenance, Inc.
3. Authorizing the City Manager or his designee to execute Amendment No. 4 to the Contract Agreement with Artistic Maintenance, Inc. for Fiscal Year 2023/2024.

BACKGROUND:

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

LMD No. 1 currently consists of sixteen (16) accepted tracts in ten (10) Zones: Tract Nos. 21882, 22810, 22811, 22913, 23446 (including the median on Highland Home

Road), 23598, 28252, 29721, 30186, 30222 (including Richard Sanchez Park), 30793, 31833, 31834, 31835, 32109, and 30906.

The purpose of LMD No. 1 is for the maintenance and servicing of landscape medians and parkways, perimeter strips and backup walls, landscaped hillsides with high visibility, side slopes adjacent to sidewalks, retention basins, and the irrigation of the above facilities all of which are part of residential development projects. LMD No. 1, by special benefit assessments, provides funding for the servicing and maintenance of designated landscape areas within the City of Banning. A map displaying LMD No. 1, the boundaries of each tract and associated Zone is attached herewith as Attachment 4.

A Request for Proposals (RFP No. 19-031) for the Operation and Maintenance of LMD No. 1 was prepared and advertised in April of 2019. On June 11, 2019, the City Council approved Resolution No. 2019-69, awarding the contract for the Operation and Maintenance of LMD No. 1 to Artistic Maintenance, Inc. The Scope of Work includes providing all the labor, tools, materials, and equipment necessary to provide landscape maintenance services of LMD No.1. This includes performing seasonal maintenance and inspection, checking the operation of all irrigation systems, and identifying required repairs and, if necessary, the labor for replacing trees, flowers or shrubs within landscaped areas that are maintained under the contract.

As originally approved, the Contract Agreement was for a term of twelve (12) months (\$5,262.50/month; \$63,150/year) with the possibility of an option to renew for up to four (4) single additional years (for a total of five (5) single years) upon a satisfactory yearly review of the previously provided services. If approved, extensions to the Contract Agreement will terminate no later than June 30, 2024. Each of the past three fiscal years the City Council has approved Amendments for an additional one-year term as the work has been satisfactory and is cost effective. If approved, Amendment No. 4, shown as Attachment 2, will extend the current Contract through June 30, 2024. The cost proposal for FY 2023/2024, included as Attachment 5, is for \$3,428/month; \$41,136/year.

For the current fiscal year, due to the continued revenue shortfall and the lack of funding for replacement projects, it was determined that the scope of work, as shown in Attachment 3, for Artistic Maintenance needed to be reduced in order to reduce maintenance costs. Public Works Department staff met with Artistic Maintenance and determined which services and locations could logically be reduced. For example, the mowing schedule was reduced from weekly to less often during the slow growth season and the shrubs and ground cover was maintained every six weeks instead of weekly. Trash pickup is tied into the mowing schedule. This reduction in the scope of work, very few miscellaneous repairs and water conservation efforts have saved approximately \$11,000 during the current fiscal year, as part of the effort to reduce LMD No. 1 expenditures.

A further reduction in the scope of work is recommended for FY 2023/2024 since there is an continued financial deficit in six of the ten Zones, as shown in Attachment 6. These six Zones will have the shrubs and ground cover maintained every quarter instead of every six weeks and mowing will be similarly reduced, based on season. It is anticipated that cost savings will continue in FY 2023/2024 due to improved irrigation through repairs, water savings and a longer-term goal to remove turf areas starting in the next fiscal year.

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

JUSTIFICATION:

The Public Works Department does not have the required field staff needed to maintain LMD No. 1 landscape areas; therefore, it is necessary to retain a landscape maintenance contractor to provide these services.

FISCAL IMPACT:

Fund No. 111 (Landscape Maintenance Assessment District No.1) will be utilized to fund this contract for Fiscal Year 2023/2024 in the amount of "not to exceed" \$56,136. Account No. 111-4900-432-23.29 (Landscape Maintenance) in the amount of \$41,136 will fund the monthly operation and maintenance portion of the Agreement and also be used to fund miscellaneous "as-needed" expenses related to irrigation repairs and landscaping replacement in the amount of up to \$15,000. The completion of miscellaneous repairs and replanting will be dependent on funding available in each individual zone.

ALTERNATIVES:

1. Adopt Resolution 2023-75 as recommended.
2. Adopt Resolution 2023-75 with modifications.
3. Do not approve Resolution 2023-75 and provide alternative direction to staff.

ATTACHMENTS:

1. Resolution 2023-75
<https://banningca.gov/DocumentCenter/View/12748/Att-1-Resolution-2023-75>
2. Draft Amendment No.4
<https://banningca.gov/DocumentCenter/View/12749/Att-2-Draft-Amendment-No-4>
3. Original Scope of Work, revised in 2021
<https://banningca.gov/DocumentCenter/View/12750/Att-3-Original-RFP-and-Scope-of-Services-revised-2021>
4. LMD No. 1 Map and Zones for FY 2023/24
<https://banningca.gov/DocumentCenter/View/12751/Att-4-LMD-No1-Map-and-Zones>

5. Cost Proposal for FY 2023/24

<https://banningca.gov/DocumentCenter/View/12752/Att-5-FY-23-24-Cost-Proposal-for-LMD-No-1>

6. Zone Reserve Balances

<https://banningca.gov/DocumentCenter/View/12747/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: Caroline Patton, Deputy City Clerk *CP*

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-76, Adopting an Amended Conflict of Interest Code Containing Revised Designated Positions and Disclosure Categories, and Repealing Resolution 2022-95

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 2023-76, A Resolution of the City Council adopting an amended Conflict of Interest Code containing revised designated positions and disclosure categories, and repealing Resolution 2022-95.

BACKGROUND:

The Political Reform Act of 1974, Government Code Section 81000 *et seq.* (the “Act”), requires all public agencies to adopt and maintain a conflict of interest code. The primary effect of the code is to establish disclosure requirements for various government positions involved in the requisite level of decision-making as set forth in the Act. The Act requires each city to adopt a local conflict of interest code designating city positions not otherwise designated in the Act itself, that are involved in making or participating in the making of city decisions at all levels of city government.

DISCUSSION:

Resolution 2023-76 updates the list of designated positions by adding positions that should be subject to the local conflict of interest code. Several of the positions being added are new, whereas others were inadvertently not included in the 2022 biennial conflict of interest code update (Resolution 2022-95).

The proposed amendments to the City’s designated positions list include adding seven new designated positions:

- Communications Manager
- Grants Coordinator
- Purchasing Manager
- Management Analyst (Electric Utility)

- Management Analyst (Finance)
- Capital Improvement Projects Manager
- Public Works Program Manager

JUSTIFICATION:

The City Council last reviewed the Conflict of Interest Code on July 12, 2022 and adopted the current Conflict of Interest Code by Resolution 2022-95. In conducting the review this year, Staff recommends that the City update the Conflict of Interest Code to add six positions. These revisions are included in Appendix A to Resolution 2023-76.

FISCAL IMPACT:

N/A

ALTERNATIVES:

1. Adopt Resolution 2023-76 as recommended.
2. Adopt Resolution 2023-76 with modifications.
3. Do not approve Resolution 2023-76 and provide alternative direction to staff.

ATTACHMENTS:

1. Resolution 2023-76
<https://banningca.gov/DocumentCenter/View/12690/Att-1-Resolution-2023-76-Conflict-of-Interest-Code-Amendment>
2. Resolution 2022-95
<https://banningca.gov/DocumentCenter/View/12689/Att-2-Resolution-No-2022-095>

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: May 9, 2023

SUBJECT: Parks and Recreation Report of Monthly Activities Through the Third Quarter of Fiscal Year 2022/2023 – March 2023

RECOMMENDATION:

That the City Council receive and file the Parks and Recreation Monthly Activities Report for March 2023

BACKGROUND:

To better track the participation levels of parks and recreation program offerings and the facilities usage for parks and recreation programs and services, staff developed a monthly report that is used to compile and present our numbers, help tell our story and allow for easy year over year comparison.

The nine-page report includes parks staff activities, park and facility usage, sports and classes participation, Senior activities, Banning Connect passes sold, aquatics programming and special events. The report is aligned with the fiscal year, July through June of each year and compiled each month.

Staff brings the report to the Council after each quarter of the Fiscal Year. Attached in this item, is the March 2023 report that contains participation information through the end of the 3rd quarter of FY 2022-23.

The 3rd quarter report recognizes the dedication of the new Lion's Ballfield Lights (Page 2 of the report) The March report shows overall growth in our programming for both youth and adults (Page 4 in the report). The 3rd quarter report represents a full year of operations without restrictions after the COVID Pandemic and a significant year over year participant increase is recognizable. The Senior Center is flourishing with new and exciting events. The month of March included "Wellderly" Week (Page 5 in the report) with many events for seniors sponsored by our own Banning Electric utility.

May 9, 2023

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One continuing negative trend is the increased vandalism and graffiti incidents in our parks. (Page 1 of the report) Parks staff has been tasked with cleaning the graffiti as soon as feasible to minimize the negative aesthetic and to not allow for the normalization of the graffiti in our parks. However, this continues to strain the staff's ability to perform ongoing parks maintenance as they are dealing with these incidents. We have also requested an increased presence from our Police Department when possible. With the recent award for the installation of cameras at Repplier Park, we are hoping this will be a deterrent to this activity moving forward and perhaps assist the Police Department if this activity continues.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

ATTACHMENTS:

1. Parks and Recreation Monthly Report of Activities for March 2023
<https://banningca.gov/DocumentCenter/View/12707/Att-1-March-2023>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-78, Awarding a Construction Agreement for Project No. 2023-01, "Street Improvement at Various Locations" to Hardy & Harper, Inc. of Lake Forest, CA in the Amount of \$1,608,000 and Establishing a Total Project Budget of \$1,768,800 and Rejecting All Other Bids

RECOMMENDATION:

Staff recommends that City Council adopt Resolution 2023-78 approving the following actions:

1. Awarding a Construction Agreement for Project No. 2023-01, "Street Improvements at Various Locations" ("Project") to Hardy & Harper, Inc. of Lake Forest, California in the amount of \$1,608,000 and approving a 10% contingency in the amount of \$160,800 for a total project budget of \$1,768,800 and rejecting all other bids.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2023-01, "Street Improvements at Various Locations" and to approve change orders within the 10% contingency.
3. Authorize the City Manager to execute the Construction Agreement with Hardy & Harper, Inc. for Project No. 2023-01, "Street Improvements at Various Locations".

BACKGROUND:

Measure A

Voters in Riverside County approved Measure "A" in 1988, which authorized the Riverside County Transportation Commission to impose an additional one-half percent (0.5%) sales tax for the next 20 years to be used for improvements of state highways, public transit systems, and local streets. In 2002, voters in Riverside County approved a 30-year extension of the one-half percent sales tax for transportation improvements.

Annually, each City in Riverside County is required to submit a Five Year CIP, as approved by its governing board, to indicate how Measure "A" funding is to be utilized over the next five years. The list of streets to be improved as part of the Project are consistent with the approved Five Year CIP adopted by City Council.

Senate Bill 1

Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statues of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 in order to address the significant multi-modal transportation funding shortfalls statewide.

Each city must include a list of all projects proposed to receive funding from the Road Maintenance and Rehabilitation Account (RMRA) created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement. A list of the proposed projects was approved by City Council on May 11, 2021. The approved list of projects are part of Project No. 2023-01, "Street Improvement at Various Locations" ("Project").

Project

Public Works staff prepared plans and specifications for Project No. 2023-01, "Street Improvements at Various Locations" ("Project") which includes the following items: grinding of existing asphalt concrete (AC) pavement; constructing new AC pavement; crack sealing of existing AC pavement; slurry seal application; remove and replace broken sidewalks, curb and gutters; remove and replace access ramps to comply with ADA requirements; and remove and replace all affected pavement markings and striping. A list of streets for the various improvements can be found attached hereto.

A Notice Inviting to Bid and the Bid Documents for the Project were posted and advertised on the City's electronic bidding system, "ProcureNow" on March 9, 2023. In response to these efforts, six (6) bids were received on April 5, 2023 from the following contractors:

<u>Companies</u>	<u>Bid Amount</u>
1) Hardy & Harper, Inc. of Lake Forest, CA	\$1,608,000.00
2) Onyx Paving Company, Inc. of Anaheim, CA	\$1,637,000.00
3) Vance Corporation of Bloomington, CA	\$1,697,672.80
4) Matich Corporation of San Bernardino, CA	\$1,720,892.00
5) All American Asphalt of Corona, CA	\$2,055,032.80
6) Calmax Engineering, Inc., CA	\$2,229,175.10

The apparent lowest bidder is Hardy & Harper, Inc. of Lake Forest, California.

Purchasing staff has conducted reference checks on Hardy & Harper, Inc. and found that the company was responsive and responsible on their contracts with other agencies. Public Works staff has also worked with Hardy & Harper in the past and was satisfied with their work.

As a result, staff recommends that a Construction Agreement be awarded to the lowest responsive and responsible bidder, Hardy & Harper of Lake Forest, California, in the amount of \$1,608,000. A copy of the bid schedule for the lowest bid can be found attached hereto.

If awarded, staff anticipates the work to commence in the middle of June, 2023 and to be completed within sixty (60) working days or approximately three (3) months from the issuance of a Notice to Proceed.

JUSTIFICATION:

The Project will assist in maintaining the City's street network in good working order.

Hardy & Harper, Inc. is the lowest responsive and responsible bidder to construct Project No. 2023-01, "Street Improvement at Various Locations".

FISCAL IMPACT:

The Construction Agreement with Hardy & Harper, Inc. is for an amount of \$1,608,000 with a 10% contingency of \$160,800 for a total project budget amount of \$1,768,800.

The project shall be funded by the following sources:

<u>Account No.</u>	<u>Amount</u>
102-4904-431.93-15 (Street Improvements – SB1)	\$740,000
101-4900-431.93-16 (Street Improvements – Measure "A")	\$1,028,800

ALTERNATIVES:

1. Approve as recommended.
2. Reject Resolution No. 2023-78 and provide direction to staff.

ATTACHMENTS:

1. Resolution 2023-78
<https://banningca.gov/DocumentCenter/View/12745/Att-1-Resolution-2023-78>
2. Hardy & Harper, Inc. Bid Schedule
<https://banningca.gov/DocumentCenter/View/12746/Att-2-Hardy-Harper-Bid-Schedule>
3. Project List of Street Improvements
<https://banningca.gov/DocumentCenter/View/12743/Att-3-Project-List-of-Street-Improvements>
4. DRAFT Public Works Contract for Hardy and Harper
<https://banningca.gov/DocumentCenter/View/12744/Att-4-Hardy-and-Harper-PWC-Contract>

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: May 9, 2023

SUBJECT: Consideration of Resolution 2023-80, Establishing Rates for Fiscal Year 2023/2024 for the Service Charge for Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection, Transportation, Recycling and Disposal Services, and Making a Finding of Exemption Under the California Environmental Quality Act

RECOMMENDATION:

Staff Recommends that City Council adopt 2023-80:

1. Establishing Fiscal Year 2023/2024 rates for the service charge for Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection, Transportation, Recycling and Disposal Services.
2. Adjusting and superseding all previous Collection, Transportation, Recycling and Disposal of Solid Waste rate structures with the Rates approved by Resolution No. 2023-80.
3. Finding that the adoption of Resolution 2023-80 is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) and direct staff to file a Notice of Exemption with the County Clerk of the County of Riverside consistent with the City Council's determination in Resolution 2023-80 that the Resolution is exempt from CEQA.

BACKGROUND:

On April 27, 2021, the City Council approved a solid waste franchise agreement ("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 ("Solid Waste Services"), effective July 1, 2021. The Franchise Agreement establishes many Solid Waste 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.

As part of adopting the new Franchise Agreement, the City Council established the initial rates (“Rates”) for the City’s monthly service charge (“Service Charge”) for Solid Waste Services following a noticed public hearing conducted in accordance with Proposition (“Prop”) 218 on June 22, 2021. The Rate components that make up the monthly Service Charge for Solid Waste Services include the following: 1) the SB 1383 Residential Component (for residential customers only), 2) Service Component; 3) Disposal Component; 4) Organics Waste Processing Component (“Organics Component”); and 5) Recycling Processing Component (“Recycling Component”). In 2021, the City Council approved annual increases to the SB 1383 Residential Component of \$1.36, effective July 1, 2022 and \$1.36, effective July 1, 2023, and a rate adjustment methodology for annual adjustments to the Service, Disposal, Organics, and Recycling Components, for a five-year period effective on each July 1 during such period.

On May 24, 2022, the City Council approved the Rates for Fiscal Year 2022/2023, effective on July 1, 2022, which included an increase of \$1.36 to the SB 1383 Residential Component and an increase of 4% for the other Rate Components in accordance with the rate adjustment methodology approved by the City Council in 2021. In approving the Rates for Fiscal Year 2022/2023, the City Council acknowledged that the rate adjustment methodology approved by the City Council in 2021 did not align with the rate adjustment methodology set forth in the Franchise Agreement. Waste Management agreed to the Rates based on the understanding that the City Council would undertake a new Prop 218 process prior to July 1, 2023, to consider approval of a rate adjustment methodology for adjusting the Rates for a five-year period (on July 1, 2023 and each July 1 thereafter through July 1, 2027) that aligns with the rate adjustment methodology set forth in the Franchise Agreement.

On January 24, 2023, the City Council directed staff to proceed with a new Prop218 notification. On April 11, 2023, a public hearing was held on the proposed rate adjustment methodology at which time there was not a majority protest. As a result, the City Council adopted Resolution No. 2023-63 establishing a revised rate adjustment methodology that aligns with the Franchise Agreement and is valid for a five-year period through the end of Fiscal Year 2028 without the need of undertaking a new Prop 218 process.

As identified by this recently approved Prop 218 process and as outlined in the Franchise Agreement, the Service Component, Disposal Component, Organics Component, and Recycling Component can be adjusted annually to account for inflation and changes in disposal and processing fees as follows:

The Service Component shall be adjusted based on the percentage increase of the Consumer Price 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 annual adjustment will be at least one percent (1.00%) (the “Floor”) and cannot exceed four

percent (4.00%) (the “Cap”). If the annual CPI adjustment exceeds the Cap or is less than the Floor, then the amount above the Cap or below the Floor shall be carried over into any succeeding year until such time as it may be applied without violating the Cap or Floor limits.

The Disposal, Organics, and Recycling Components shall be adjusted for changes in tipping fees or processing fees, as applicable, charged at the disposal, recycling processing, or organic processing facilities used by Waste Management as follows:

- A. 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, then applicable Component (Disposal, Organics, or Recycling) shall be adjusted using the same methodology described above for adjusting the Service Component and be subject to the same Floor and Cap provisions.
- B. In all other circumstances (e.g., Waste Management uses a facility owned by a third party or public agency), the applicable Component (Disposal, Organics, or Recycling) shall be adjusted using the actual change in the per ton tip fee or per ton processing fee charged at the disposal, organic waste processing facility, or recyclable processing facility, as applicable, between the previous year and the prior previous year. If Waste Management uses multiple facilities that have different per ton tip/processing fees, the City shall determine the change in the per ton tip/processing fee charged between the previous year and the prior previous year for each applicable facility and multiply this amount by the percentage of the total tonnage delivered to the facility. 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).

JUSTIFICATION:

As permitted by the Franchise Agreement, Waste Management requested an annual rate adjustment for Fiscal Year 2023/2024 (July 1, 2023 - June 30, 2024), as shown in the attached letter.

Based on the methodology of the Franchise Agreement and the Prop 218 approval mentioned above, staff evaluated each Rate Component to determine applicable adjustments. As described above, the Service Component is adjusted by the increase in CPI with the 1% “Floor” and 4% “Cap”. For this period, the CPI is 8.7%. As a result, a 4% increase was applied to the Service Component of the Rates and 4.7% shall be carried forward into any succeeding year until such time it may be applied without violating the Cap or Floor limits.

The Recycling Component will also be adjusted by the CPI since Waste Management owns and operates the facility used for processing this material. The Recycling Component shall be adjusted using the same methodology described above for adjusting the Service Component and is subject to the same Floor and Cap provisions.

For the Disposal Component, it was determined that Waste Management uses a facility owned by a third-party/public agency and that the component will be adjusted using the actual change in the per ton processing fee charged at the disposal facility between the previous year and the prior previous year. The percentage change for this component is 5.46%.

For the Organics Component, there will be no change in the fee at this time. As identified above and previously approved, there is a scheduled SB 1383 Residential Component monthly Rate increase in the amount of \$1.36, effective July 1, 2023 (FY 2023/2024).

The City Council may use the rate adjustment methodology approved by the City Council pursuant to Resolution No. 2023-63 to establish the Rates for a five-year period through the end of Fiscal Year 2028 without undertaking a new Prop 218 process.

CEQA:

City staff has evaluated the adoption of the Rates pursuant to Resolution No. 2023-80 for purposes of compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and has determined that the adoption of the Rates is an activity covered by the common sense exemption in that it can be seen with certainty that there is no possibility that adoption of the Rates may have a significant effect on the environment because the adoption of the Rates only address the cost of existing services provided to the public and not the commencement of a new service or program. Accordingly, staff recommends that the City Council find that the adoption of Resolution 2023-80 is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

FISCAL IMPACT:

The current residential Rate for the collection of refuse is \$27.10 per month per household and the rate will increase to \$29.45, which includes the \$1.36 SB 1383 Residential Component Rate adjustment. The commercial Rate will be adjusted in accordance with the rate adjustment methodology, as shown in the attached residential and commercial rate schedule, attached hereto as Attachment 2. The new rate schedule will be effective July 1, 2023 for Fiscal Year 2023/2024.

ALTERNATIVES:

Reject WM's request to increase the Rates for Solid Waste Services. If rejected, pursuant to the Franchise Agreement, WM shall have the right to dispute the denial action by pursuing measures outlined in the Franchise Agreement.

ATTACHMENTS:

1. Resolution 2023-80

<https://banningca.gov/DocumentCenter/View/12715/Att-1-Resolution-2023-80-Solid-Waste-Rates>

2. FY 2023/2024 Solid Waste Rates

<https://banningca.gov/DocumentCenter/View/12716/Att-2-Proposed-Rate-Schedule-Effective-7123-Final>

3. WM Rate Increase Letter

<https://banningca.gov/DocumentCenter/View/12713/Att-3-Banning-Rate-Adjustment-Letter-Amendment-002>

4. Rate Comparison with Other Local Providers

<https://banningca.gov/DocumentCenter/View/12714/Att-4-Surrounding-Area-Rate-Survey>

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
Nate Smith, Deputy Director of Public Works/City Engineer

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolutions 2023-82 and 2023-83, Accepting a Permanent Easement for Traffic Signal and Public Utility Purposes and an Irrevocable Offer of Dedication in Connection with the Apex Street Right-of-Way

RECOMMENDATION:

Staff recommends that the City Council adopt the following two Resolutions accepting a permanent easement for traffic signal improvements and public electric utility purposes and an Irrevocable Offer of Dedication of a permanent easement for public street, drainage, and public utility purposes pursuant to Government Code Section 7050 in connection with Apex Street right-of-way:

1. Resolution 2023-82, A Resolution of the City Council of the City of Banning, California, Accepting that Certain Permanent Easement for Traffic Signal Improvements and Public Electric Utility Purposes on Portions of the Real Property Located at 5700 W. Wilson Road, Banning (APN 419-050-017) and Making Findings that No Further Environmental Review is Required Pursuant to Section 15162 of the California Environmental Quality Act Guidelines and Section 21166 of the Public Resources Code
2. Resolution 2023-83, A Resolution of the City Council of the City of Banning, California, Consenting to the Recordation and Acceptance of that Certain Irrevocable Offer of Dedication of Easement Pursuant to Government Code Section 7050 in Connection with Apex Street Right-of-Way on Portions of the Real Property Located at 5700 W. Wilson Road, Banning (APN 419-050-017) and Making Findings that the Acceptance of the Irrevocable Offer of Dedication is Exempt Under Section 15301 of the California Environmental Quality Act Guidelines

BACKGROUND:

The City of Banning (City) approved certain applications of development submitted by Pardee Homes (Developer) for development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other

open space (108.4 acres), two school sites (23.0 acres), an existing utilities substation facility (4.2 acres), a fire station (1.6 acres) and backbone roadways (113.6 acres), a waste water treatment facility, and various on-site and off-site conveyance pipelines for sewer, water, storm drain, and related improvements (Development Project) on approximately 1,522 acres within the Butterfield Specific Plan owned by the Developer and 21-acres owned by the Highland Springs Country Club Owners Association (Developer Property). Pursuant to Ordinance No. 1450, which was adopted by the City Council in April 10, 2012, the City Council amended the Deutsche Specific Plan and superseded it with the Butterfield Specific Plan. The City Council also adopted certain conditions of approval. Ordinance No. 1450 confirmed that the City prepared a Final Environmental Impact Report (EIR) (SCH No. 2007091149), including Draft EIR and Mitigation Monitoring and Report Program prepared in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines Section 15000 through 15387, and the City of Banning Environmental Review Guidelines.

Resolution 2023-82 Accepting a Permanent Easement for Traffic Signal Improvements and Public Electric Utility Purposes

The City approved Tentative Tract Map 37298 on July 10, 2018, subject to certain conditions of approval. One of the conditions required the Developer to construct certain public improvements and to acquire a public utility easements connection with the proposed construction of a traffic signal at the intersection of Apex Street and Wilson Street (Public Utility and Traffic Signal Improvements). The Developer has reached an agreement with Linda Vista Park Partners, LLC (Owner), the record owner of the real property located at 5700 W. Wilson Road, Banning, and identified as Riverside County Tax Assessor's Parcel Number 419-050-017 (Property) for the Owner's grant to the City of an approximate 2,977 square foot permanent easement for traffic signal improvements, public electric utility purposes, maintenance and related purposes described more particularly on Exhibit "A" and Exhibit "B" to the Grant of Permanent Easement (Subject Easement) attached as Exhibit "1" to Resolution 2023-82. City staff was involved in the negotiations and terms of the Subject Easement.

Pursuant to the Subject Easement, the Owner reserves for itself, its successors, and assigns the right to maintain landscaping, if any, located on the surface of the approximate 337 square foot portion of the Subject Easement that is located outside of the portion of the Subject Easement within Apex Street. The Owner agrees not to plant any trees or permanent structures on the surface of the Subject Easement. Further, the Parties agree that the Subject Easement will not be recorded until the Owners' existing lender for the Property provides a subordination agreement or consent in connection with the Subject Easement.

By executing the Subject Easement, the City agrees that the public electric utilities that the City will install within the area of the Subject Easement do not provide service to the Property and will not impact the existing public electric facilities/infrastructure that service the Property. In addition, the City agrees that, except for any trees or bushes located in the area of the Subject Easement that the City determines interfere with City's use of the

Subject Easement, the City will replace any landscaping and/or irrigation system removed, disturbed, damaged, or destroyed during the City's construction of the underground public utility improvements, installation of the traffic signal, or in connection with the City's maintenance, or repair of the traffic signal improvements or underground public utility improvements, any construction process or maintenance work with respect to the utility improvements, now or in the future, with material of like kind and quality to as close to the condition in which the landscape and irrigation improvements existed prior to the construction, repair, or maintenance work. Further, the Subject Easement provides that the City will indemnify, defend, and hold the Owner harmless from and against any and all claims for any accident, injury, damage, loss, expense, disturbance, interruption, death, or other liability, of any kind, which are made against the Owner or the Owner's successors or assigns that arise out of the City's interest in, use of, or improvements placed by the City on the Subject Easement, including reasonable attorneys' fees and costs of defending such claims, except to the extent that such claims arise from the negligence or willful misconduct of the Owner or the Owner's successors and assigns.

The environmental effects of the Development Project and the acquisition of the Subject Easement were studied as an integral part of the Final EIR (SCH No. 2007091149) pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, and the CEQA Guidelines, 14 Cal. Code Regs. Section 15000 *et seq.* (CEQA Guidelines). City staff reviewed the environmental documentation prepared in connection with the Development Project. Pursuant to the criteria of Section 15162 of the CEQA Guidelines and Section 21166 of the Public Resources Code, City Staff concluded that no substantial changes have occurred in the Development Project, no substantial changes have occurred in the circumstances under which the Development Project is undertaken, and the City has obtained no new information of substantial importance that would require further environmental analysis. These environmental findings are the appropriate findings with respect to the proposed acquisition of the Subject Easement.

Resolution 2023-83 Consenting to the Recordation of and Accepting the Irrevocable Offer of Dedication Pursuant to Government Code Section 7050 for Public Street Purposes (Apex Street Right of Way)

In connection with the review of applicable documents and parcel maps and discussions with the Owner regarding the Subject Easement, the City learned that portions of the Apex Street right-of-way that is currently improved with street improvements and maintained by the City and has been used by the public for public street purposes for several decades was inadvertently not dedicated by the Owner at the time that the Owner received development approvals in connection with Parcel Map 20058. The Owner agreed to irrevocably offer to dedicate to the City pursuant to Government Code Section 7050 as a permanent easement for public street, drainage and public utility purposes, and all uses necessary or convenient thereto an approximate 0.74 acre permanent easement area described in Exhibit "A" and depicted on Exhibit "B" (Apex Street Easement Dedication) to the Irrevocable Offer of Dedication of Easement attached as Exhibit "1" to Resolution 2023-83. The Apex Street Easement Dedication consists of an

approximate 0.74-acre portion of the Property that is improved with the Apex Street public street improvements and maintained by the City. A small portion of the Subject Easement for traffic signal and public electric utility purpose is located within portions of the improved portions of the Apex Street Easement Dedication area located at the southwest corner of Apex Street and Wilson Street.

By adopting Resolution 2023-83, the City Council would consent to recordation of the Irrevocable Offer of Dedication. The adoption of Resolution 2023-83 would also authorize the City Clerk to cause this Resolution to be recorded in the Official Records of the County of Riverside after the City obtains recording information for the Irrevocable Offer of Dedication. Further, the adoption of Resolution 2023-83 would authorize the City Manager to execute, after the City obtains recording information for the Irrevocable Offer of Dedication, the "Certificate of Acceptance of Dedication of Easement Pursuant to Government Code Section 7050 for Public Street, Drainage and Public Utility Purposes, and All Uses Necessary and Convenient Thereto" (Certificate of Acceptance) in substantially the form attached as Exhibit "C" to Resolution 2023-83. The recording of the Certificate of Acceptance would confirm the City's acceptance of the Irrevocable Offer of Dedication.

As noted above, Apex Street is improved in the portions that are the subject of the Irrevocable Offer of Dedication. City staff has determined that the acceptance of the Irrevocable Offer of Dedication is exempt from CEQA under Section 15301 of the CEQA Guidelines because the subject portions of Apex Street consist of existing improved public street facilities that are currently maintained by the City and there is negligible or no expansion of the existing use.

JUSTIFICATION:

City staff recommends that the City Council adopt the proposed Resolutions. The adoption of the Resolutions would authorize the acceptance of the Subject Easement and Irrevocable Offer of Dedication. As discussed above, the City Council previously determined that it is necessary to construct a traffic signal and related improvements in the area of the Subject Easement. The Irrevocable Offer of Dedication is necessary to clarify in the public records the City's easement interest in the subject portions of Apex Street improved with public street and related improvements and currently maintained by the City.

FISCAL IMPACT:

The City would be responsible for maintaining the Subject Easement and continuing to maintain the Apex Street right-of-way.

ALTERNATIVES:

1. Adopt Resolutions 2023-82 and 2023-83 as recommended.
2. Do not adopt Resolution 2023-82 and provide alternative direction to staff.
3. Do not adopt Resolution 2023-83 and provide alternative direction to staff

ATTACHMENTS:

1. Resolution 2023-82

<https://banningca.gov/DocumentCenter/View/12718/Att-1-Resolution-2023-82-Accepting-Easement-for-Traffic-Signal-Improvements-and-Public-Electric-Utility>

2. Resolution 2023-83

<https://banningca.gov/DocumentCenter/View/12717/Att-2-Resolution-2023-83-Consenting-to-the-Recordation-of-an-Irrevocable-Offer-of-Dedication-and-Acceptin>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: May 9, 2023

SUBJECT: Accept an Easement from TriPointe Homes for Electric Utility Purposes on Assessor's Tract Map No. 37389-2 within the Atwell Development for the Maintenance of the City-Owned Electric Distribution System

RECOMMENDATION:

Staff recommends that City Council accepts easements from Tri Pointe Homes for electric utility purposes for Tract Map No. 37389-2 within the Atwell Development for the maintenance of the City-owned electric distribution system.

BACKGROUND:

Final Tract Map No. 37389-2 within the Atwell Development Specific Plan was approved by City Council by Resolution No. 2020-94 on July 14, 2020. Banning Electric Utility has constructed electrical improvements within these tracts that were required to serve the housing development. As part of the Conditions of Approval for the project, the owner is required to provide the City the necessary easements for the maintenance of the City owned electric distribution system.

This easement will cover electric facilities that were both existing and recently constructed along the western boundary of Planning Area 11, and on various lots within Tract Map 37389-2. The facilities within the proposed easement consist of primary overhead services that existed for the Highland Estates community (37389-3) and underground electric service for the Atwell development.

JUSTIFICATION:

It is necessary to obtain the easements for the City to access and provide maintenance for the City owned electric distribution equipment which may include utility poles, conduit with conductors, transformers, switchgear, equipment pads and meters.

FISCAL IMPACT:

There is no fiscal impact associated with the acceptance of the easement.

ALTERNATIVE:

Do not approve and provide alternative direction.

ATTACHMENT:

1. Easement – Tract 37389-2

<https://banningca.gov/DocumentCenter/View/12720/Att-1-Easement---Tract-No-37389-2>

2. Certificate of Acceptance

<https://banningca.gov/DocumentCenter/View/12719/Att-2-Certificate-of-Acceptance--Easement-for-37389-2>

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
Nate Smith, Deputy Director of Public Works/City Engineer

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-85, Approving a Revised Cooperative Agreement between the City of Banning, Riverside County Flood Control & Water Conservation District, and KB Homes for the Construction of the East Gilman Home Channel A, Stage 1 and East Gilman Home Debris Basin, Stage 1, and Repealing Resolution 2023-30

RECOMMENDATION:

Staff recommends that City Council adopt Resolution 2023-85:

1. Rescinding Resolution 2023-30;
2. Approving a revised Cooperative Agreement between the City of Banning, Riverside County Flood Control & Water Conservation District (RCFC&WCD), and KB Homes ("Cooperative Agreement") for the construction and inspection of the East Gilman Home Channel A, Stage 1 and East Gilman Home Debris Basin, Stage 1; and,
3. Authorizing the City Manager or designee to execute the revised Cooperative Agreement.

BACKGROUND:

The City Council approved Resolution 2023-30 at the February 14, 2023 City Council meeting permitting the City to enter into an agreement with KB Homes and the Riverside County Flood Control and Water Conservation District related to construction and operation of flood control facilities for the East Gilman Home Channel 1, Stage 1 and East Gilman Home Debris Basin, Stage 1. After action by the City Council, the agreement was transmitted to the Riverside County Board of Supervisors for approval. Prior to the Board meeting, County Counsel provided additional comments to the agreement, and sent the agreements back to KB Home and the City of Banning for approval.

The revised agreement removes repeated text in Recital K statement (a) and (b), and reference in Recital K statement (b) to "approved CULVERT FLOW RATES". The revised

text states "**(a) complies with this Agreement, (b) prepares PROJECT plans in accordance with DISTRICT and CITY approved plans and specifications and this agreement**" The rest of the agreement is unchanged.

The text in the following paragraphs repeat those contain in the February 14, 2023, Resolution 2023-30 staff report:

A Condition of Approval for TTM 33540, located north of Gilman Street and west of 11th Street requires the construction of certain storm drain facilities within the project. KB Homes has prepared storm drainage plans for the East Gilman Home Channel A and East Gilman Home Debris Basin consistent with the RCFC&WCD Master Drainage Plan (MDP) for the area. Once constructed, the storm drains and basin will be maintained by RCFC&WCD.

The cooperative agreement (Attachment 2) between the City of Banning, RCFC&WCD, and KB Homes grants RCFC&WCD the necessary rights to inspect, operate, and maintain the proposed storm drain channel; identifies facilities to be maintained by RCFC&WCD and the City; and defines each parties responsibility for the construction, inspection, access, and maintenance of the facility.

JUSTIFICATION:

The RCFC&WCD will be the owner of the proposed facility and will maintain the storm drain. The Cooperative Agreement between the City, RCFC&WCD, and KB Homes is necessary in order to grant RCFC&WCD the necessary rights to inspect, operate, and maintain the storm drain facility.

FISCAL IMPACT:

There is no fiscal impact to the City of Banning. The inspection, operation, and maintenance of the storm drain facility will be the responsibility of the RCFC&WCD.

ALTERNATIVES:

The City Council may choose not to adopt Resolution 2023-85. Without the Cooperative Agreement, the RCFC&WCD may choose not to maintain the storm drain, placing the burden to inspect, operate, and maintain on the City of Banning.

ATTACHMENTS:

1. Resolution 2023-85
<https://banningca.gov/DocumentCenter/View/12724/Att-1-Resolution-2023-85---Coop-Agreement---E-Gilman-Home-Channel-A>
2. Cooperative Agreement – East Gilman Home Channel A, Stage 1 and East Gilman Home Debris Basin, Stage 1
<https://banningca.gov/DocumentCenter/View/12725/Att-2-Cooperative-Agreement---East-Gilman-Home-Channel-Line-A>

May 9, 2023

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3. Improvement Plan Vicinity Map

<https://banningca.gov/DocumentCenter/View/12723/Att-3-Approved-SD---RCFCD-111621>

4. Resolution 2023-30

<https://banningca.gov/DocumentCenter/View/12722/Att-4-CC-Resolution-No-2023-030>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-88, Awarding a Professional Services Agreement to Engineering Resources of Southern California (ERSC) in the Amount of \$550,000 for Plan Check, Inspection and related Administrative Services through Fiscal Year 2023/24 with the Option to Renew for Four Additional Single Years

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 2023-77:

1. Approving the award of a Professional Services Agreement to Engineering Resources of Southern California (ERSC) in the amount of \$550,000 for services as needed including Plan Check, Inspection and related Administrative Services through June 30, 2024 with the option to renew for four (4) additional single years.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement with ERSC.
3. Authorizing the City Manager or his designee to execute the Professional Services Agreement with ERSC valid through June 30, 2024 with the option to renew for four (4) additional signal years.

BACKGROUND:

The Public Works Department, currently staffed with three full-time engineers and one inspector, administers an array of services including management of capital improvement and infrastructure projects related to the design and construction of water, wastewater, streets, storm drain and building infrastructure. In addition to managing public works projects, staff is also responsible for processing private land development projects related to Public Works responsibilities (e.g. infrastructure, grading, storm water, etc.). Due to current and anticipated upcoming workloads related to private development (e.g. Atwell, Rancho San Gorgonio) the need to establish an agreement with a firm to continue providing plan check, inspection and related administrative services is necessary in order to maintain an acceptable level service.

On January 4, 2023, a Request for Proposals (RFP) was released through the OpenGov ProcureNow, the City's online bidding system notifying qualified firms of the opportunity. The deadline to submit proposals was February 6, 2023 and five (5) firms responded with submittals.

The scope of services requested for plan checking includes, but is not limited to street, sewer, water, grading and storm drain projects for residential and non-residential projects; responses to staff and applicants regarding permits; and preparation of conditions of approval. The inspection services scope requires inspectors to work under the direction of the Public Works Director and/or assigned staff to provide construction inspections services before, during and after construction insuring conformance with Federal, State and City statutes while maintaining appropriate records.

A three-person proposal evaluation committee consisting of three (3) City staff members evaluated the five (5) proposals that were received based on qualifications, experience of key personnel, approaches in providing services, and rates.

Listed below are the five (5) firms that submitted proposals in order of average score:

CONSULTANT	AVERAGE SCORE
Engineering Resources of Southern California (ERSC)	90.75
Willdan	86.17
Bureau Veritas North America, Inc.	84.00
Transtech Engineers, Inc.	82.05
Albert A. Webb and Associates	74.50

As a result, staff recommends the award of a professional service agreement to the highest ranked firm, ERSC, with a recommended award amount of \$550,000. If awarded, the Professional Services Agreement will be for plan check, inspection and related administrative services on an as needed basis valid through June 30, 2024 with the option to renew for four (4) additional single years.

JUSTIFICATION:

Due to current and an anticipated workload related to private land development activities, the Public Works Department has recognized a need for additional resources to provide plan check and inspection services in a timely manner and to maintain an acceptable level service.

ERSC was rated the highest firm that submitted a proposal as a response to the RFP.

FISCAL IMPACT:

The approved Fiscal Year 2023/2024 budget includes \$550,000 in the Engineering Fund, Account No. 001-3000-442.33-53 which will be allocated to fund the Agreement with

ERSC. The expense will be directly offset by revenues collected from plan check and inspection fees collected by the Public Works Department. If workload and projects increase, additional authorizations may be necessary for the fiscal year, with developer and inspection fees paid to the City of Banning directly offsetting expenses.

ALTERNATIVES:

1. Approve as recommended.
2. Do not approve and provide alternative direction. This alternative would cause a reduction in the level of service to private development applicants in processing of their projects. Additionally, staff would have less time to work on the City's capital improvement projects.

ATTACHMENTS:

1. Resolution 2023-88
<https://banningca.gov/DocumentCenter/View/12742/Att-1-Resolution-2023-88>
2. Request for Proposals
<https://banningca.gov/DocumentCenter/View/12740/Att-2-RFP-23-001>
3. Draft Professional Services Agreement with ERSC
<https://banningca.gov/DocumentCenter/View/12741/Att-3-C00805-PSA-ERSC-Plan-check-and-Inspection>

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/Acting Chief of Police

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-89, Approving the Transfer of Title of a 1996 Wells Cargo Trailer from the Banning Police Department to the Banning Police Officers Association

RECOMMENDATION:

Approve and Adopt Resolution No. 2023-89 authorizing the transfer and sale of the 1996 Wells Cargo Trailer from the City of Banning Police Department to the Police Officer Association for the sum of \$1.00

BACKGROUND:

In 1996, the Banning Police Department ("BPD") purchased a 1996 Wells Cargo (enclosed) Trailer ("Trailer") BPD has been utilizing the Trailer for traffic enforcement and DUI checkpoints. Specifically, the trailer was used to haul equipment to include barricades, cones, tables, and chairs and other miscellaneous equipment. The trailer is over 27 years old and has been idle due to the major refurbishment needed and is scheduled to be replaced. The equipment in good condition within the Trailer will be removed and potentially used in a new trailer. BPD has requested funding from the Office of Traffic Grants (OTS) to replace the Trailer.

The Banning Police Officer Association ("BPOA") President requested the Trailer to be repurposed for use by the BPOA. The Trailer will be reconfigured for use at community events such as community BBQ's, recruitment opportunities, and will act in support of the Banning Police Department Explorer Post. The BPOA will be financially responsible for reconfiguring and refurbishing the Trailer.

JUSTIFICATION:

Based on the age and overall condition, the Trailer will need to be refurbished including but not limited to paint, graphics, ties, brakes, and axle maintenance, etc., if retained. By transferring the Trailer to the POA, the Trailer will continue to be used for local events deriving use from the Trailer to engage and support the City of Banning greater area.

May 9, 2023

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Additionally, the BPOA will assume the costs to refurbish the trailer and all ownership expenses such as registration, licensing, and insurance, etc.

FISCAL IMPACT:

The transfer and sale of this vehicle has no fiscal impact to the department. The value of the trailer has been estimated between \$5,000-\$8,000 by researching comparable trailers available online and in the area. The BPOA will purchase the trailer for \$1.00 and assume all fiscal responsibility.

ALTERNATIVES:

1. Adopt Resolution 2023-89 as recommended.
2. Adopt Resolution 2023-89 with modifications.
3. Do not approve Resolution 2023-89 and provide alternative direction to staff.

ATTACHMENTS:

1. Resolution 2023-89

<https://banningca.gov/DocumentCenter/View/12706/Att-1-Resolution-2023-89-Transfer-of-Trailer-from-PD-to-POA>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Adam B. Rush, Community Development Director

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-84, Making a Determination of Exemption under CEQA Guidelines Section 15162 (Subsequent EIRS and Negative Declarations) and Approving a 12-month Extension of Time for Tentative Tract Map 36710 and Variance 19-3001, a Proposal to Subdivide 10.6-acres of Land into 39 Single-Family Residential Lots and Three Lettered Lots and a Variance to Allow a Reduced Lot Size and Dimension for lot 7 Located on the Northwest Corner of East Wilson Street and North Florida Street (APNs 534-183-014, 534-200-004, 534-200-008 and 534-200-047) within the Low Density Residential Zoning District

RECOMMENDATION:

Adopt City Council Resolution 2023-84, making a determination that the Project is exempt under Section 15162 (Subsequent EIRS and Negative Declarations) of the California Environmental Quality Act (CEQA) Guidelines and approving a 12-month Extension of Time for Tentative Tract Map 36710, a proposal to subdivide 10.6-acres of land into 39 single-family residential lots and three lettered lots and Variance 19-3001, a proposal to allow a reduced lot size and dimension for lot 7, located on the northwest corner of East Wilson Street and North Florida Street within the Low Density Residential zoning district (the "Project").

BACKGROUND:

The applicant is requesting approval of a 12-month Extension of Time for Tentative Tract Map 36710, a proposal to subdivide 10.6-acres of land into 39 single-family residential lots and three lettered lots and Variance 19-3001, a proposal to allow a reduced lot size and dimension for lot seven, located on the northwest corner of East Wilson Street and North Florida Street within the Low Density Residential zoning district (see Figures 1 and 2).

The 10.6-acre vacant site is an undeveloped infill parcel primarily covered with dry, tall grasses and scattered low bushes (Figure 3). The site slopes generally downward from

the northwest to the southeast. The highest point at the northwest corner is 2,453 feet above mean sea level (amsl) and the lowest point at the southeast corner is 2,422 amsl. The property is adjacent to East Wilson Street and North Florida Street which are both improved streets (Figure 1). The property consists of four lots that will be combined and subdivided with the Tract Map (Figure 4). North, East and West of the site are developed single-family residential lots. To the south are open sports fields and a school. The property is currently zoned Low Density Residential (LDR), which establishes a minimum single-family residential lot size of 7,000 square feet (Figure 2). If the Project site were built in accordance with its existing General Plan land use designation, a total of 53 units could be constructed. The applicant is proposing 39 numbered lots and 3 lettered lots.

The table below denotes the related uses and zoning districts within the Project area.

LAND USE SUMMARY TABLE

Location	General Plan Designation	Zoning Designation
Site	Low Density Residential (LDR)	LDR (0-5 dwelling units per acre)
North	LDR	LDR
South	Public Facility – School (PF-S)	PF-S
East	LDR	LDR
West	LDR	LDR

Source: City of Banning General Plan and Zoning Map

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Figure 1, Vicinity Map

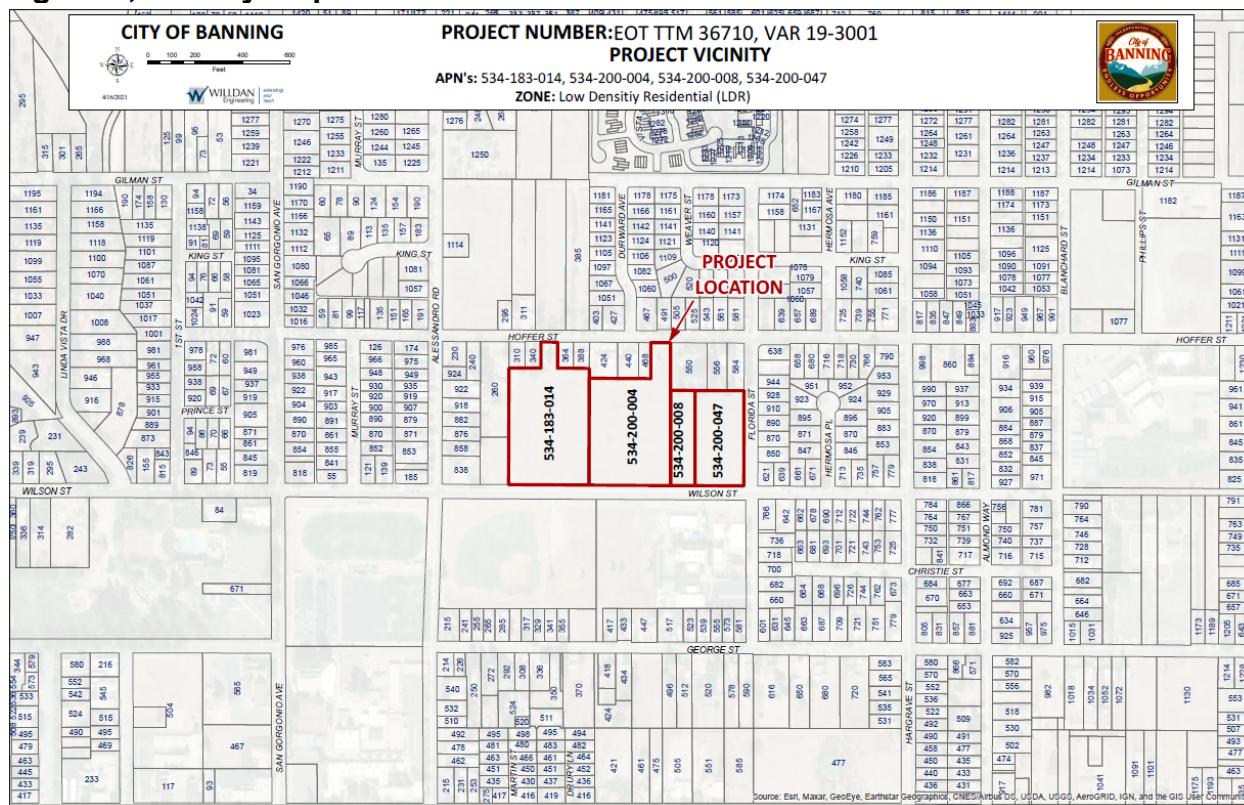


Figure 2, Zoning Map

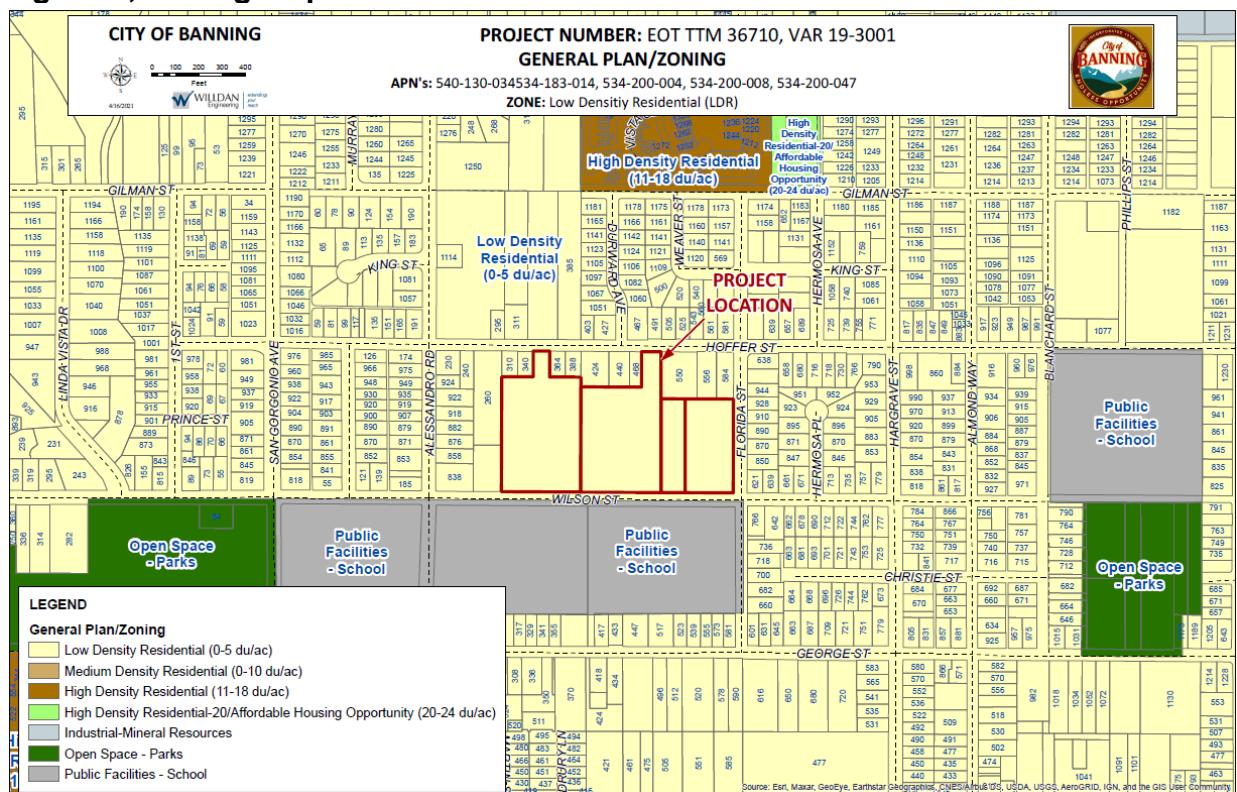


Figure 3, Aerial Map

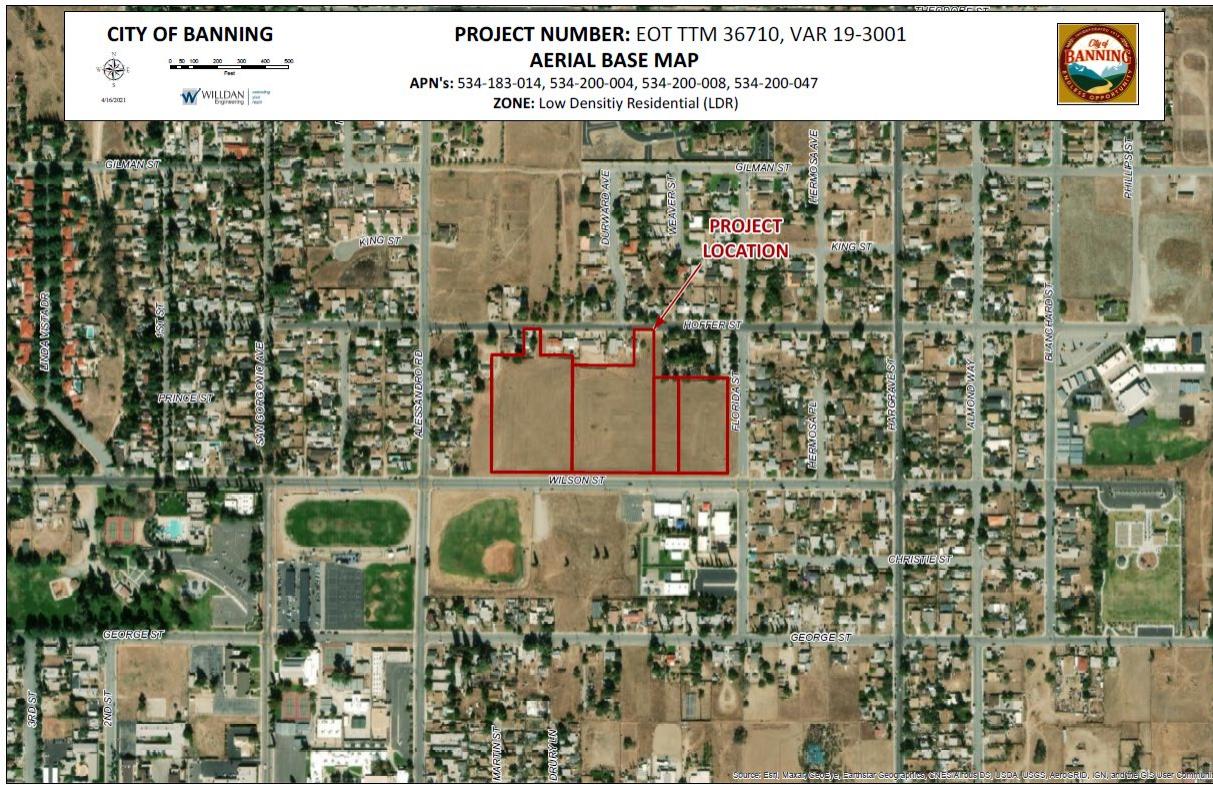
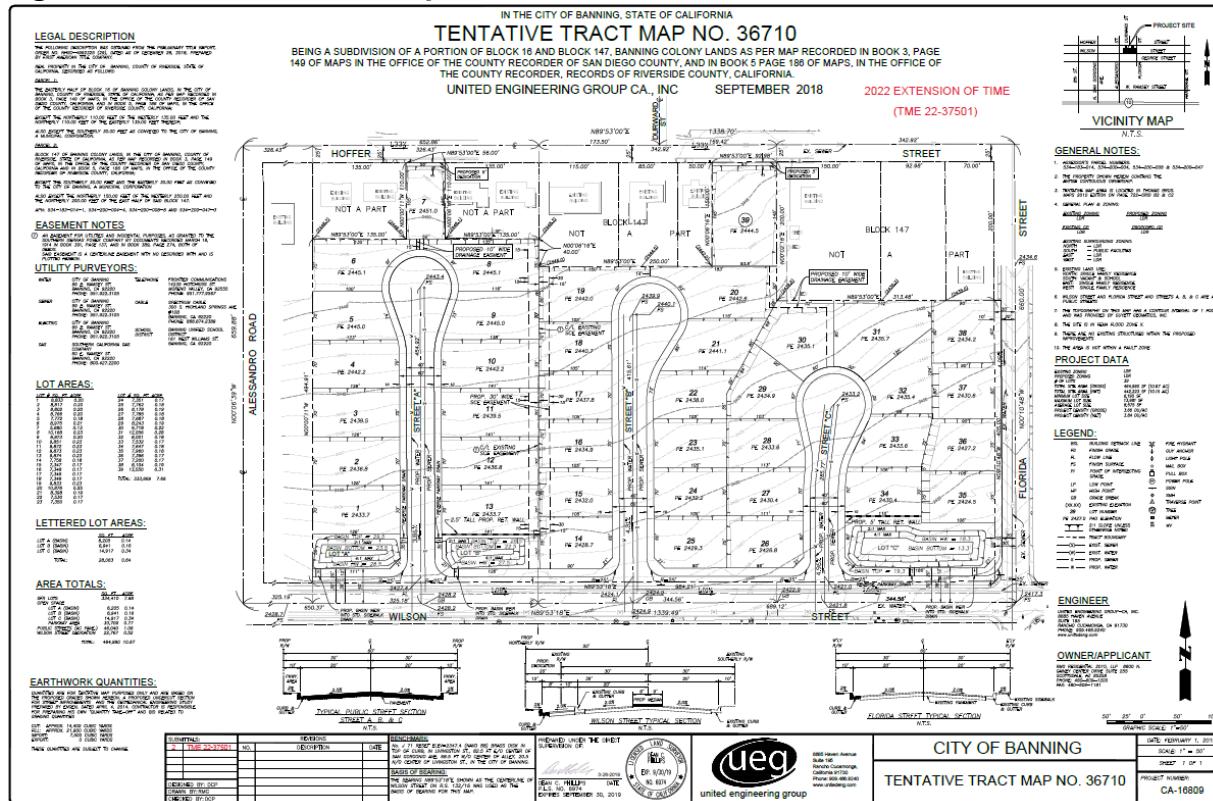


Figure 4, Tentative Tract Map 36710



JUSTIFICATION:

Tentative Tract Map 36710

Pursuant to Title 16 of the Banning Municipal Code, regarding Tentative Tract Maps, the Planning Commission is the Advisory Agency to the City Council. Therefore, the attached Resolution 2023-04 is a recommendation for approval to the City Council. Additionally, Findings for the approval of the Tentative Tract Map Extension of Time can be found within the attached resolution.

TTM 36710 proposes 39 numbered lots with a minimum lot size of 7,000 square feet (except for lot 7) and three lettered lots dedicated for detention basin purposes. Numbered lots range in size from 5,880 (Lot 7) square feet to 13,550 square feet. The total density is 3.84 dwelling units per acre.

Access to the Project site is from East Wilson Street where the project provides three cul-de-sacs to service most of the development. Lots 7 and 39 will gain access via East Hoffer Street and lots 35 – 38 will gain access via North Florida Street. The City of Banning defines traffic Level of Service (LOS) “satisfactory” as LOS D. LOS D is the minimum LOS to be maintained on all roadway segments and intersections. Trip generation for the proposed project was calculated using rates from the Institute of Transportation Engineers (ITE) Trip Generation (9th Edition). The project will be utilizing the same Traffic Study for the original project and incorporating all recommended mitigation measures and conditions. Based on the project’s trip generation, under existing and opening year conditions, all the studied intersections operate at satisfactory LOS or better.

Access to the project will be accommodated by using existing streets and/or proposed cul-de-sacs. Water, sewer and electrical services will be provided by the City of Banning Public Works Department and Electrical Division. The Project is required to connect to the existing 8-inch water main on East Wilson Street and existing 8-inch sewer line at the intersection of East Wilson Street and North Florida Street. Lots 7 and 39 will connect to the existing water and sewer lines in Hoffer Street and Lots 35 – 38 will connect to the existing water and sewer lines in North Florida Street.

There is an existing 15-foot wide Southern California Edison easement behind proposed lots 8 through 19. Southern California Edison is requesting the easement be increased to 30 feet to allow vehicle access. This 30-foot-wide easement affects the backyards of the above-mentioned lots. Lots 8 through 13 will have their backyards reduced by 15 feet. Lots 14 through 19 will have their backyards reduced by 15 feet. Lots 14 through 19 have the greatest impact as their lots will be reduced from 105 feet in depth to 90 feet. Although the depth is reduced, all lots maintain minimum standard lot dimensions of 70 feet wide by 90 feet deep.

Variance

Pursuant to the Banning Municipal Code Section 17.112.010 regarding variances; “Variances from this Zoning Ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, unusual

geological or geographical feature, the strict application of this Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical land use districts.” Additionally, “The Planning Commission may grant a Variance from the requirements of this Zoning Ordinance for the following: 1. The modification of the dimensional standards of the distance between structures, lot area, lot coverage, lot dimensions, setbacks, and structure heights.”

Variance 19-3001 is a request by the applicant to allow for a smaller lot size and smaller width dimension for lot 7. Lot 7 is constrained by developed residential properties on both sides. The lot as proposed is 56 feet wide, 105 feet deep for a total of 5,880 square feet. The minimum lot sizes in the LDR zone are 70 feet wide, 90 feet deep and a total of 7,000 square feet. As demonstrated here, the lot width and total square footage are below the minimum. The lot width is consistent with other lots in the area. On the same block there are lot widths ranging from 50 feet to 150 feet. There are existing single-family and multi-family residential structures in the area.

As stated above, the Planning Commission may grant a variance for lot width and lot area if the property is deprived of the privilege of other properties in the vicinity and under identical land use districts. Additionally, the Planning Commission may approve and/or modify an application in whole or in part, with or without conditions, only if all findings are made. Findings for this proposed Variance can be found in the attached Resolution for the project.

ENVIRONMENTAL DETERMINATION:

In accordance with the California Environmental Quality Act (CEQA), the original Project’s Initial Study was prepared and circulated that demonstrated environmental effects would be reduced to less than significant levels with mitigation measures. Therefore, a Mitigated Negative Declaration and Mitigation Monitoring Program was adopted for the project.

California Environmental Quality Act (CEQA)

Planning Division staff has determined that this Project is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15162 (Subsequent EIRS and Negative Declaration) because:

1. There are no substantial changes proposed, there are no new environmental effects, and there is no increase in the severity of previously identified significant effects that require revisions to the previously approved Mitigated Negative Declaration.
2. There are no substantial changes to the project with respect to the circumstances under which the project is undertaken.
3. There is no new information of substantial importance, which was not known and could not have been known at the time the previous negative declaration was adopted.

PUBLIC COMMUNICATION:

Proposed 12-month Extension of Time for Tentative Tract Map 36710 and Variance 19-3001 were advertised in the Record Gazette newspaper, April 28, 2023. As of the date of this report, staff have not received any written comments for or against the Project.

FISCAL IMPACT:

The fiscal impact of the Project is positive. If approved, the project will generate permit fees, additional property tax revenue, and increase the population of Banning thereby increasing the business traffic and sales tax revenue. The fees, taxes, and revenues will vary year-to-year and quarter-by-quarter; as such, determining an estimated amount is speculative, at best.

ALTERNATIVES:

1. Adopt Resolution 2023-84 as recommended.
2. Adopt Resolution 2023-84 with modifications.
3. Do not approve Resolution 2023-84 and provide alternative direction to staff.

ATTACHMENTS:

1. City Council Resolution 2023-84
<https://banningca.gov/DocumentCenter/View/12726/Att-1-City-Council-Resolution-2023-84>
2. Planning Commission Resolution 2023-04
<https://banningca.gov/DocumentCenter/View/12729/Att-2-Planning-Commission-Resolution-2023-04>
3. Project Plans
<https://banningca.gov/DocumentCenter/View/12730/Att-3-Project-Plans>
4. Public Hearing Notice
<https://banningca.gov/DocumentCenter/View/12727/Att-4-Public-Hearing-Notice>
5. Notice of Exemption
<https://banningca.gov/DocumentCenter/View/12728/Att-5-Notice-of-Exemption>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: City Council

FROM: Doug Schulze, City Manager

PREPARED BY: Adam Rush, AICP, Community Development Director

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-86, Approving Tentative Parcel Map 38497 (TPM 22-4004), a Proposed Subdivision of One (1) 1.14-Acre Parcel into Four (4) Single-Family Residential Lots Within The Low Density Residential District, Located on The South Side of W. Wilson Street, Between Fourth Street and Linda Vista Drive, in the City Of Banning, CA 92220 (APN 540-070-006)

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 2023-86:

1. In accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Tentative Parcel Map No. 38497 and determined that pursuant to CEQA Section 15315 (Minor Land Divisions), the Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA").
2. Approving Tentative Parcel Map No. 38497, subject to Compliance with the Conditions of Approval, attached herein.

PROJECT / APPLICANT INFORMATION:

Project Location: South of West Wilson St., between Fourth Street and Linda Vista Drive

APN Information: 540-070-006

Project Applicant: Roberto Robles
434 E. Barbour Street
Banning, CA 92220

Property Owner: Roberto Robles
434 E. Barbour Street
Banning, CA 92220

PROJECT DESCRIPTION:

The 1.14-acre parcel is in a typical rectangular configuration, undeveloped, and is a relatively flat lot, gently sloping from west to east. The Applicant has requested and prepared a Tentative Parcel Map for the single parcel to be subdivided into four new parcels within the Low Density Residential (LDR) zone. Lot 1 and Lot 3 are each proposed to have a gross area of 12,534 square feet in size; and Lot 2 and Lot 4 are each proposed to be 12,240 gross square feet each. Each new lot will contribute to a public access easement for personal vehicles and emergency response vehicles to reach the rear of the site. The subdivision will create new parcels that are consistent with the LDR zone in terms of lot size, lot width, and lot depth.

ANALYSIS:

The property is an infill lot, surrounded by existing single-family homes, a City Park, and is bounded by West Wilson Street to the north, and between Fourth Street and Linda Vista Drive (Figure 2). The project site is located within the Low Density Residential (LDR) zone (Figure 3), wherein subdivisions of land are permitted upon recommendation by the Planning Commission, and subject to approval by the City Council.

Surrounding Land Use

The site consists of an underutilized, partially developed parcel located at 282 West Wilson Street (APN 540-070-006) in an otherwise built-out residential neighborhood environment along the north and south sides of West Wilson Street, and the west side of Fourth Street. Repplier Park is also located adjacent to the subject site to the east and to the south. The nature of the surrounding uses, zoning classifications, and General Plan land use designations are identified for City Council consideration in the following table and Figures 2 and 3:

Table 1, Land Use Summary Table:

	Existing Land Use	Zoning Designation	GP Designation
Subject Site	Partially Developed	Low Density Residential (LDR)	LDR
North	Developed	LDR	LDR
South	Developed	Open Space - Parks	Open Space - Parks
East	Developed	Open Space - Parks	Open Space - Parks
West	Developed	LDR	LDR

Figure 1, Vicinity Map:

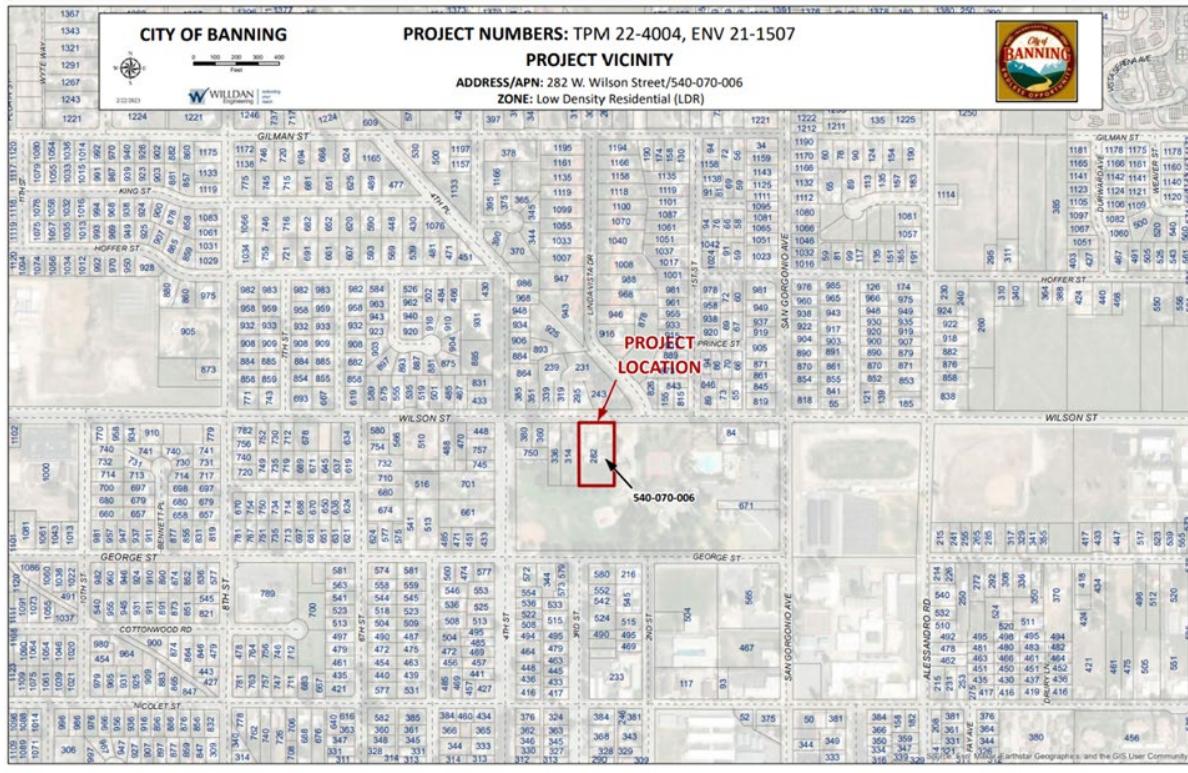


Figure 2, Aerial Map:



Figure 3, General Plan/Zoning Map:

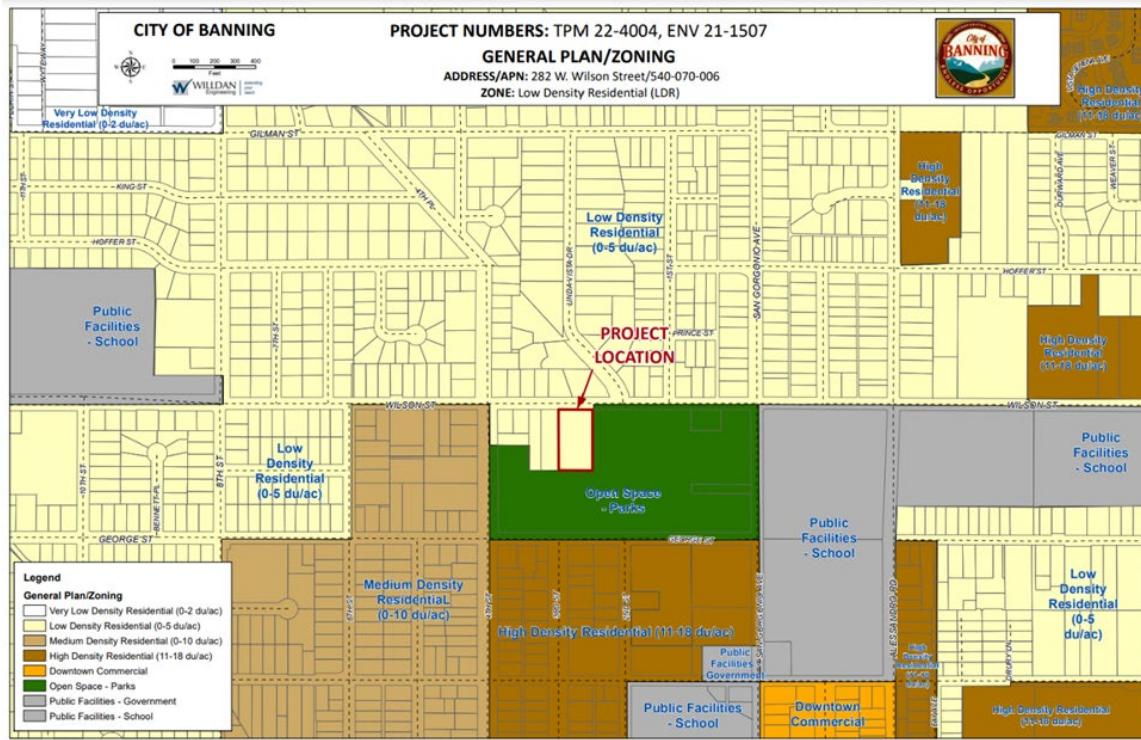
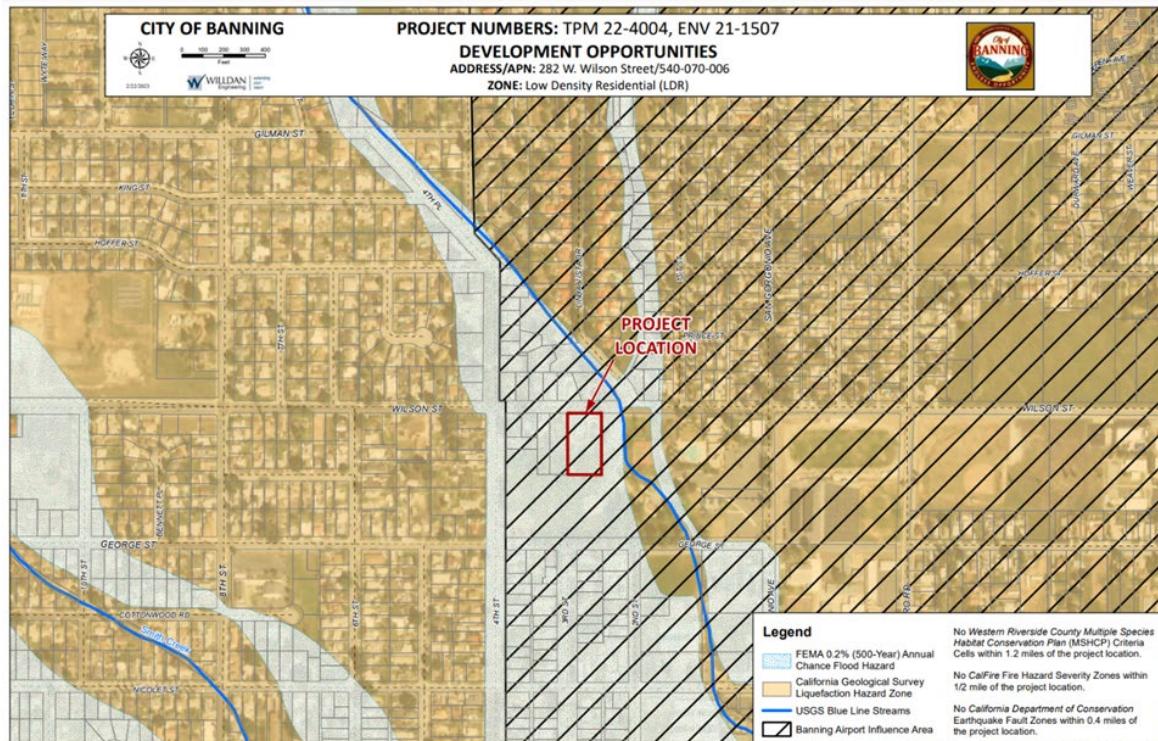


Figure 4, Development Opportunities:



Development Standards

Below illustrates that the newly created parcels will meet the minimum lot dimensions and setback standards for the Low-Density Residential District:

Table 2, Lot Size Requirements:

MINIMUM LOT DIMENSIONS	LDR	LOT 1	LOT 2	LOT 3	LOT 4
Minimum Lot Size	7,000 sf	12,534 sf	12,240 sf	12,534 sf	12,240 sf
Lot Depth	90 ft	147 ft	147 ft	147 ft	147 ft
Lot Width	70 ft	85.26 ft	83.26 ft	85.26 ft	83.26 ft
Front Yard Setback	20 ft	34.9 ft	TBD	34.7 ft	TBD
Side Yard Setback	10 ft	10 ft	TBD	10 ft	TBD
Rear Yard Setback	15 ft	15 ft	TBD	15 ft	TBD

Two of the four new lots will each retain an existing single-family home fronting West Wilson Street, and two of the four new lots will be vacant LDR lots subject to the development standards for the LDR zone. A portion of an existing structure straddling the proposed new property line between Parcel 1 and Parcel 3 is to be removed, and an old existing concrete foundation straddling the proposed property line between Parcel 2 and Parcel 4 will be removed. Demolition permits shall be required for this work to ensure proper diversion and disposal of debris.

Easement

A shared 30-foot-wide private driveway access easement is required by City of Banning Fire and shall be recorded as extending along the south side of Lot 1, and Lot 2, then tapering down to a minimum 24-foot-wide private driveway shared between Lot 3 and Lot 4, culminating in a hammerhead turnaround near the southerly extent of Parcels 3 and 4. The private easement shall be for the non-exclusive use of future residents and designed to be consistent with Fire Department requirements for emergency vehicle ingress and egress.

Parking Requirements

Pursuant to Banning Municipal Code Section 17.28.040, each new single-family home must provide two covered parking spaces within an enclosed garage.

Required Findings for Tentative Parcel Map

The City Council may recommend approval and/or modify a Tentative Parcel Map application in whole or in part, with or without conditions, only when all the following findings are made:

- A. The proposed map is consistent with the General Plan.
- B. The design or improvement of the proposed subdivision is consistent with the City's General Plan.
- C. The site is physically suitable for the type of development.
- D. The site is physically suitable for the density of development.
- E. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- F. The design of the subdivision or type of improvements is not likely to cause serious public health problems.
- G. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Findings A through G (referenced above) for the proposed Tentative Parcel Map are made and are found in the attached CC Resolution 2023-86.

Conclusion

The Planning Commission has recommended approval of the proposed Tentative Parcel Map 38497 as the proposed project is consistent with the requirements of the General Plan and Banning Municipal Code including lot area, lot width and lot depth, provides for emergency vehicle access, and will make public improvements pursuant to the recommended Conditions of Approval while not adversely affecting the environment. All the findings and supplemental findings can be made, and the project adequately meets performance standards and guidelines as discussed in the staff report, CC Resolution 2023-86, and the Project Plans. Conditions of Approval are attached to CC Resolution 2023-86 which will ensure that each lot substantially conforms to the approved map and specifications, and that the lots will be maintained and operated for their intended purpose.

ENVIRONMENTAL DETERMINATION:

Planning Division staff has determined that this Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15315 (Minor Land Divisions) because:

Class 15 consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

Findings to support a CEQA exemption for the project are made and are found in the attached CC Resolution 2023-86.

MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP):

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

PUBLIC NOTICE

Notice of the proposed Tentative Parcel Map 38497 was mailed to all property owners within 300-feet of the project site on April 25, 2023; and was advertised in the Record Gazette newspaper and posted in two public places on April 28, 2023, in accordance with State law and the Banning Municipal Code.

PUBLIC COMMUNICATION:

As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

ATTACHMENTS:

1. Resolution 2023-86
<https://banningca.gov/DocumentCenter/View/12737/Att-1-Resolution-2023-86-TPM>
2. Planning Commission Resolution 2023-06
<https://banningca.gov/DocumentCenter/View/12738/Att-2-Planning-Commission-Resolution-2023-06>
3. Conditions of Approval
<https://banningca.gov/DocumentCenter/View/12739/Att-3-COAs>
4. Project Plans
<https://banningca.gov/DocumentCenter/View/12734/Att-4-Project-Plans>
5. Notice of Exemption
<https://banningca.gov/DocumentCenter/View/12735/Att-5-Notice-of-Exemption>
6. Public Hearing Notice
<https://banningca.gov/DocumentCenter/View/12736/Att-6-Public-Hearing-Notice>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Lincoln Bogard, Administrative Services Director
MEETING DATE: May 9, 2023
SUBJECT: FY 2023-24 Preliminary General Fund Mid-Cycle Budget

RECOMMENDATION:

Receive and file the FY 2023-24 Preliminary General Fund Mid-Cycle Budget report.

BACKGROUND:

Fiscal staff has begun the preparation of the FY 2023-24 Mid-Cycle Budget. We plan to bring at least two iterations to the City Council. Our goal is to provide updates through the presentation of the Recommended Mid-Cycle Budget for Council consideration for adoption at the June 27, 2023, City Council meeting.

To date, staff has identified over \$1.7 million in additional revenues for the General Fund for FY 2023-24 compared to the Adopted Biennial Budget that was approved in June of 2022. We continue to look for additional revenue opportunities and expenditure cuts to help close the General Fund Adopted Budget shortfall of \$2.5 million.

The City Manager expected \$2.0 million in Exclusive Negotiating Agreement revenues in FY 2022-23; however, it is now looking like we will be able to recognize \$500,000 in this fiscal year, and \$500,000 in FY 2023-24. That will increase our General Fund Net Loss in this fiscal year but reduce it for next year.

Property Tax and various other general “discretionary” revenues are also anticipated to come in significantly higher than the Adopted Budget.

The results presented will continue to change as we endeavor to bring this Mid-Cycle Budget to breakeven prior to requesting Council approval on June 27, 2023.

JUSTIFICATION:

The City budgets for a two-year period and FY 2023-24 is the second year from the Adopted Biennial Budget for FY 2022-23 and FY 2023-24. This mid-cycle budget helps

to account for economic factors that have occurred since adoption. One final update will be done in or around January 2024 to adjust for mid-year needs.

FISCAL IMPACT:

There is no direct fiscal impact, but the budget sets expectations for receipts of revenues and appropriates spending authority for those funds throughout the coming year.

ALTERNATIVES:

1. Receive and file the FY 2023-24 Preliminary General Fund Mid-Cycle Budget report.
2. Provide feedback and direction to staff.

ATTACHMENTS:

1. OpenGov General Fund Preliminary FY 2023-24 Mid-Cycle Budget Report
https://banningca.opengov.com/transparency#/70548/accountType=revenuesVersusExpenses&embed=n&breakdown=types¤tYearAmount=cumulative¤tYearPeriod=years&graph=bar&legendSort=coa&proration=true&saved_view=null&selection=D8C013F373DC8E041A31E57C7F4466D7&projections=null&projectionType=null&highlighting=null&highlightingVariance=null&year=2024&selectedDataSetIndex=null&fiscal_start=earliest&fiscal_end=latest

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Lincoln Bogard, Administrative Services Director
Nicole Jews, Human Resources/ Risk Manager

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-77, Approving an Amendment to Employee Supplemental Benefit Plans and Providers

RECOMMENDATION:

Approve and Adopt Resolution 2023-77 approving the amendment to employee supplemental benefit plans and providers effective July 1, 2023.

BACKGROUND:

The City has worked with Keenan as its Insurance Broker for the past several years. A part of our commitment to the City Council and to staff is to continually research and find options to reduce costs, retain employees and provide quality benefits. We tasked Keenan to do marketing of the dental, vision, life, disability plans, and other voluntary plans, plus addressing the employee enrollment experience. The marketing results allow the City to enhance benefits plans, provide premium savings, and improve the enrollment experience for employees during open enrollment for July 1, 2023 and new hires going forward.

JUSTIFICATION:

The marketing results provide enhanced benefits and premium savings for the Dental PPO and Short-Term Disability plans. Employees approved a transition to a 7-day waiting period for the Short-Term Disability plan, like CASDI, as a part of the most recent round of labor negotiations. The current Blue Shield Vision plan offers exam-only coverage, whereas the new Eyemed Vision plan will offer exams and a \$200 frame or contact lens allowance every 12 months for each enrolled employee and each covered family member.

The City is also planning to move to a January 1 plan start date for benefits each year as of January 1, 2024. This will allow employees to change plans without life events by moving to a more universal open enrollment period that aligns with the Affordable Care Act (ACA), Covered California, and most companies open enrollment periods that occur in or around November of each year.

FISCAL IMPACT:

None to the City. There will be a reduction in Employee Health Benefit Costs for the same or better level of existing plan coverages. There will be a change in carriers offering the benefit plans to the City.

Marketing Results

Effective: July 1, 2023

	Current	Renewal	Monthly Premium	Contract Period	Carrier	Benefit Enhancement
DPPO High	\$ 5,893.02	\$ 5,893.02	\$ 5,537.25	2 Years	AFLAC	Premium savings and dental implant coverage
DPPO Low	\$ 1,867.74	\$ 1,867.74	\$ 1,754.92	1 Year	AFLAC	Premium savings and dental implant coverage
Dental HMO	\$ 483.40	\$ 546.25	\$ 546.25	18 months	Delta HMO	Renewal increase and no benefit change
Vision	\$ 325.74	\$ 331.86	\$ 772.21	1 Year (2 year w/CICCS)	CICCS Eyemed	Exam and \$200 frames & lenses or contacts allowance every 12 months for all enrolled
Group Life/AD&D	\$ 1,791.48	\$ 1,791.48	\$ 1,791.48	2.5 Years	Lincoln	No premium or benefit changes
Short-Term Disability	\$ 1,876.74	\$ 1,876.74	\$ 3,266.00	2.5 Years	Lincoln	7 day waiting period and \$2,200 weekly benefit
Long-Term Disability	\$ 3,321.60	\$ 3,321.60	\$ 2,656.89	2.5 Years	Lincoln	Premium savings no benefit change
Monthly Premium	\$ 15,559.72	\$ 15,628.69	\$ 16,325.00			
Annual Premium	\$ 186,716.64	\$ 187,544.23	\$ 175,900.00			
% Change Over Current		0.44%	-5.79%			
\$ Savings Over Current		\$ 827.59	\$ (10,816.64)			

ALTERNATIVES:

1. Adopt Resolution 2023-77 as recommended.
2. Adopt Resolution 2023-77 with modifications.
3. Do not approve Resolution 2023-77 and provide alternative direction to staff.

ATTACHMENTS:

1. Resolution 2023-77

<https://banningca.gov/DocumentCenter/View/12731/Att-1-Resolution-2023-77---Change-Employee-Benefit-Plans-and-Providers>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: May 9, 2023

SUBJECT: Consideration of Resolution 2023-81, Approving City Council Standing Committee Policies

RECOMMENDATION:

Adopt Resolution 2023-81, approving City Council Standing Committee Policies.

BACKGROUND:

At the January 10, 2023 meeting of the City Council, direction was given to the City Manager to develop policies for the standing committees of the City Council. During the April 25, 2023 council meeting, a request for policies specific to the Budget and Finance Committee was submitted by Mayor Pro Tem Wallace. The six standing committees established by the City Council have not been provided with any direction or guidance regarding focus, objections or responsibilities, which creates uncertainty for staff regarding items that should be discussed with committees. The lack of guidance also creates a situation whereby committees request staff work that may not be consistent with Council priorities. As reported by the City Treasurer during the April 25, 2023 meeting, the Budget and Finance Committee actually intended to direct the Administrative Services Director, which is not appropriate action for an advisory committee. When this happens, staff is tasked with work that detracts from Council priorities.

The City of Banning has not traditionally used policy committees very extensively. The Budget & Finance Committee is the most active committee and recently requested several items that deviate from the original intent of the committee and would task staff with substantial work.

JUSTIFICATION:

There are currently no policies or procedures for standing committees of the City Council. As such, no guidance is available regarding meeting schedules, purpose/scope of each committee, workload, staff support, etc. Adopted policies will provide needed guidance for staff and committee members.

FISCAL IMPACT:

Not applicable.

ATTACHMENTS:

1. Resolution 2023-81
<https://banningca.gov/DocumentCenter/View/12732/Att-1-Resolution-2023-81-Approving-Standing-Committee-Policies>
2. Draft City Council Standing Committee Policies
<https://banningca.gov/DocumentCenter/View/12733/Att-2-Standing-Committee-Policies>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
MEETING DATE: May 9, 2023
SUBJECT: Animal Shelter Discussion

RECOMMENDATION:

Discussion item only.

BACKGROUND:

Prior to mid-2018, the City of Banning received animal control services through a contract with the City of Beaumont. In early 2018, the City of Beaumont provided notice of intent to terminate the agreement. From mid-2018 through June 30, 2021, animal control and shelter services were provided by Riverside County. In 2021, the City of Banning terminated the contract with Riverside County Animal Control for animal control and shelter services. Annual costs of the contract with Riverside County were escalating at a rapid rate and impounded animals were taken to Jurupa Valley when the San Jacinto shelter closed. The decision to create a City Animal Control Division and re-open the Banning Animal Shelter was expected to reduce costs, improve animal control services and house local impounded pets locally to facilitate reunification with pet owners.

Based on Riverside County Animal Control data, we estimated shelter needs and the annual contract rate for shelter services. Actual shelter needs in 2022 exceeded estimates significantly. The result has been insufficient kennel space and increased costs for shelter operation. The shelter operator, A.R.E. Animal Rescue, is responsible for operating the City's Animal Shelter and an animal shelter program for the City. The agreement with A.R.E. requires compliance with American Humane Society standards.

The City of Banning provided A.R.E. Animal Rescue with a facility that does not meet the capacity needs to shelter pet impounds from City of Banning Animal Control, pet seizures from law enforcement and owner drop-offs/abandonment frequently left outside the shelter gates after hours. Shelter guidelines published by the American Humane Society include floor plans that have been used to establish a rough cost estimate for an appropriate shelter facility. A budget of approximately \$250,000 - \$350,000 would be required to construct a prefabricated metal building with kennel space to accommodate 100 dogs as well as the associated support space needed. The current animal shelter site has sufficient space to construct a new building.

Reducing the number of dogs currently sheltered is an ongoing effort, but an investment of a minimum of \$150 per dog has been made by A.R.E. Animal Rescue, which includes the cost of spay/neutering, microchipping, vaccinations, and food for 10 or more days. Recovery of those costs, in part, is achieved through pet adoption. Transfer of dogs to another shelter facility will require payment of fees and loss of adoption revenue.

FISCAL IMPACT:

Not applicable

ATTACHMENTS:

1. Animal Care and Shelter Agreement
<https://banningca.gov/DocumentCenter/View/12698/Att-1-Animal-Care-and-Shelter-Services-Agreement>
2. A.R.E. 2022 Revenue and Expenditure Report
<https://banningca.gov/DocumentCenter/View/12697/Att-2-ARE-Animal-Rescue-Revenue-and-Expense-Report>

Approved by:



Douglas Schulze
City Manager