



## **AGENDA**

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

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

**September 12, 2023 REVISED 9/8**  
**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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<https://us02web.zoom.us/j/81007280759?pwd=d0JCK0oyeGhOQk5Cek1kd3FJUmlsQT09>

**Meeting ID: 810 0728 0759**

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

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

- 1.1. Invocation – *Pastor Nate Rodriguez of Infinite Center*
- 1.2. Pledge of Allegiance
- 1.3. Roll Call

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

- 2.1. Approve Agenda

**3. PRESENTATION(S)**

3.1. Proclamation – Hispanic Heritage Month.....10

3.2. GHJ Advisors Auditor Presentation – Peter Brown

**4. REPORT ON CLOSED SESSION**

Serita Young, City Attorney

**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 August 15 and August 22, 2023 City Council Meetings..... **11**
- 6.2. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of July 31, 2023..... **12**
- 6.3. Receive and File Cash, Investments and Reserve Report for the Month of July 2023..... **14**
- 6.4. Consideration of Resolution 2023-156, Accepting a Department of Alcoholic Beverage Control (ABC) 2023/2024 Alcohol Policing Partnership (APP) Grant Award of \$60,000..... **17**
- 6.5. Authorize the City Manager to Sign the Notice of Completion for Project No. 2022-09W, “Altitude Valves at the San Gorgonio Reservoirs” as Complete and Direct the City Clerk to Record the Notice of Completion..... **19**
- 6.6. Consideration of Resolution 2023-09 UA, Approving the Sixth Amendment to the Maintenance and Operations Agreement with Veolia Water Contract Operations USA, Inc. to Extend the Term of the Agreement for Three Additional Years..... **21**
- 6.7. Second Reading and Adoption of Ordinance 1594, An Ordinance of the City of Banning, California, Amending Section 2.28.080 of Chapter 2.28 of Title 2 of the Banning Municipal Code Regarding the Regular Meeting Time of the Banning Planning Commission, and Making a Determination of Exemption under CEQA Guidelines Sections 15061(b)(3) and 15378(b)(5)..... **25**
- 6.8. Consideration of Resolution 2023-163, Approving the Amended Agreement for Participation in the County of Riverside’s Urban County Program for Fiscal Years 2024-2025, 2025-2026, and 2026-2027..... **27**

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

- 7.1. Consideration of the Second Reading and Adoption of Ordinance 1595, Amending Chapters 8.16 of the Banning Municipal Code by Adopting by Reference, with Amendments to Chapter 1, Section 105.3.1 and 108.2 of the 2022 Edition of the California Fire Code, to Incorporate Annual Inspections of Existing and Future Businesses and Their Operations, located in the City of Banning..... **31**  
*(Staff Report: Adam Rush, Community Development Director)*

**Recommendation:** 1. Adopt the Notice of Exemption (NOE) which determines that Ordinance No. 1595 is not subject to CEQA, pursuant to Section 15060(c)(3) of the California Environmental Quality Act (CEQA); and 2. Conduct a public hearing on Ordinance No. 1595 in accordance with Gov. Code, § 50022.3. Close the public hearing and adopt Ordinance No. 1595, Amending Chapter 8.16 of the Banning Municipal Code by adopting by reference, with Amendments to Chapter 8.16.020 to add language to § 105.3.1 of the Fire Code.

- 7.2. Consideration of Introduction and First Reading of Ordinance 1596, Establishing Amended Uses and Adding Development Standards for Multi-family and High-Density Residential Uses in the Downtown Commercial Zoning District.....**34**  
(*Staff Report: Adam Rush, Community Development Director*)

**Recommendation:** Waive full reading and introduce, as read by title only, Ordinance 1596, An Ordinance of the City of Banning, California, Amending the Downtown Commercial Zoning District (Title 17, Division II, Chapter 17.12, Article I & II By Adding New Permitted and Conditionally Permitted Uses to Table 17.12.020 and Amendment the Commercial and Industrial Development Standards (Table 17.12.030, Table 17.12.050, Chapter 17.12.060 and 17.12.070, and Making a Determination of Exemption from the California Environmental Quality Act (CEQA). This Ordinance Amendment Affects All Parcels Within the Downtown Zoning District (DC).

## **8. REPORTS OF OFFICERS**

- 8.1. Consideration of Resolution 2023-153, Approving Amendment 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an Additional Amount of \$20,000 for the Design of the Ramsey Street and Omar Street Intersection Improvements and Extending the Term of Agreement to July 5, 2025.....**39**  
(*Staff Report: Art Vela, Director of Public Works*)

**Recommendation:** Staff recommends that the City Council adopt Resolution 2023-153: (1) Approving Amendment 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc. ("WEBB") for an additional amount of \$20,000 for the Design of the Ramsey Street and Omar Street Intersection Improvements and extend the term of the agreement to July 5, 2025; (2) Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations, and transfers related to Amendment 1 to the Professional Services Agreement with WEBB; and, (3) Authorizing the City Manager or his designee to execute Amendment No. 1 to the Professional Services Agreement with WEBB.

- 8.2. Discussion and Consideration of Resolution 2023-154, Approving the Electric Utility Power Source Disclosure Annual Report and Power Content Label for Calendar Year 2022.....**42**  
(*Staff Report: Jim Steffens, Acting Electric Utility Director*)

**Recommendation:** Staff recommends the City Council adopt Resolution 2023-154: (1) Approving the City of Banning Electric Utility ("Utility") Power Source Disclosure Annual Report and Power Content Label for Calendar Year 2022, attached herewith as Exhibit "A" and Exhibit "B" to Attachment 1; and (2) Authorize the Electric Utility Director, or his or her designee, to disseminate the information included on the Power Content Label to the Utility's customers in compliance with the requirements of Senate Bill 1305 and Assembly Bill 162.

- 8.3. Consideration of Resolution 2023-155, Awarding a Design-Build Agreement to EFS West for the Compressed Natural Gas Fueling Station in the Amount

of \$3,543,013 and Approving a 10% Contingency for a Total Project Budget of \$3,897,314 and Approving Amendment 3 with STV Incorporated for Support Services in the Amount of \$109,000..... **44**  
(Staff Report: Art Vela, Director of Public Works)

**Recommendation:** Staff recommends that the City Council adopt Resolution 2023-155: (1) Approving a Design-Build Agreement for the Compressed Natural Gas (CNG) Fueling Station to EFS West of Valencia, California in the amount of \$3,543,013 and approving a 10% contingency in the amount of \$354,301 for a total project budget of \$3,897,314 and rejecting all other bids; (2) Approving Amendment 3 with STV Incorporated for Support Services in the Amount of \$109,000; (3) Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Design-Build Agreement for the CNG Fueling Station and to approve change orders within the 10% contingency; and, (4) Authorize the City Manager to execute the Design-Build Agreement with EFS West of Valencia, California for CNG Fueling Station and Amendment 3 to the Professional Services Agreement with STV Incorporated.

- 8.4. Consideration of Resolution 2023-157, Approval of the Emergency Purchase of Two (2) 34.5kV Potential Transformers from City of Pasadena Water & Power of Pasadena, CA and Substation Testing Services from Electric Power Systems International, Inc. of Santa Ana, CA in the Amount of \$26,986.60..... **49**  
(Staff Report: Jim Steffens, Acting Electric Utility Director)

**Recommendation:** Staff recommends City Council approve the emergency purchase of two (2) 34.5kV potential transformers from City of Pasadena Water & Power and substation testing services from Electric Power Systems International, Inc. under the City of Banning's emergency procurement policies.

- 8.5. Consideration of Resolution 2023-158, Ratifying Previous Task Orders and Approving The Continued Use Of Professional Service Agreements For Energy Efficiency Programs Through The Southern California Public Power Authority (SCPPA)..... **52**  
(Staff Report: Lincoln Bogard, Administrative Services Director)

**Recommendation:** The City Council adopt Resolution 2023-158: (1) Ratifying prior task orders and Master Service Agreements that were executed by the Electric Utility Director, approve the continued use task orders identified, ratify the energy efficiency program professional service agreements through Southern California Public Power Authority (SCPPA), and authorize the City Manager or his designee to execute all agreements; and (2) Ratifying all prior payments made to SCPPA, which circumvented purchasing controls by SCPPA billing indirectly via the Riverside Public Utility (RPU) monthly invoicing process.

- 8.6. Consideration of Resolution 2023-159, Approving a Revision to Classification and Compensation Plan..... **57**  
(Staff Report: Lincoln Bogard, Administrative Services Director)

**Recommendation:** Staff recommends City Council adopt Resolution 2023-159 Amendment to the Classification and Compensation Plan effective September 18, 2023.

- 8.7. Consideration of Resolution 2023-160, Approving a Budget Allocation and Approval to Update the City Computer Network Infrastructure.....**59**  
(Staff Report: Lincoln Bogard, Administrative Services Director)

**Recommendation:** Staff recommend City Council adopt Resolution 2023-160 authorizing budget allocation and approving the City Manager to enter into a 3-Year agreement for Vigilant Managed Endpoint Detection and Response (MEDR), including year-round, 24 hour, 7 days per week (24/7/365) Cybersecurity monitoring and response services for a total 3-Year Not-To-Exceed amount of \$309,702.

- 8.8. Consideration of Resolution 2023-161, Approving Amendment No. 6 to the Professional Services Agreement with Engineering Resources of Southern California (ERSC) to Increase the Total Compensation by \$128,052.19 for Plan Check, Inspections and Related Administrative Services..... **61**  
(Staff Report: Art Vela, Director of Public Works)

**Recommendation:** The City Council adopt Resolution 2023-161 approving the following actions: (1) Approving Amendment No. 6 to the Professional Services Agreement with Engineering Resources of Southern California (ERSC) for an additional \$128,052.19 for plan check, inspections and related administrative services and closeout the contract; (2) Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement Amendment No. 6 with ERSC; and, (3) Authorizing the City Manager to execute Amendment No. 6 with ERSC.

- 8.9. Consideration of Resolution 2023-162, Consolidated Approval of Software-as-a-Service Products Utilized Citywide..... **64**  
(Staff Report: Lincoln Bogard, Administrative Services Director)

**Recommendation:** Adopt Resolution 2023-162 approving the consolidated annual Software as a Service Agreements used City-Wide for the additional not-to-exceed amount of \$354,000.

- 8.10. Consideration of Resolution 2023-131, Amending Policy No. B-30 (Procurement Policies & Procedures), and Introduction and First Reading of Ordinance 1591, Amending Chapter 3.24 (Purchasing System) of Title 3 (Revenue and Finance) of the Banning Municipal Code, Concerning the City Manager's Aggregate Monetary Threshold Authorizations for Approval of Certain Contracts.....**66**  
(Staff Report: Lincoln Bogard, Administrative Services Director)

**Recommendation:** Staff recommends that the City Council pull this item until any City Council Member adds this back onto Future Agenda Items.

- 8.11. Phase 2 of Forensic Investigation into the Electric Enterprise.....**68**  
(Staff Report: Lincoln Bogard, Administrative Services Director)

**Recommendation:** Approve by Minute Order the payment to GHJ Advisors an additional \$75,000 for Phase 2 of the Forensic Investigation into the Electric Enterprise for a total not-to-exceed amount of \$100,000.

**9. DISCUSSION ITEM(S)**

None

**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) – *Tentatively Scheduled for 9/26*
3. Food Desert Zoning Overlay (Minjares)
4. Beautification of San Gorgonio Overpass Funding (Gonzales) – *Tentatively Scheduled for 10/24*
5. Scope and Duties of the Budget and Finance Committee (Wallace) – *Tentatively Scheduled for 10/10*
6. Neighborhood Groups/Identities (Minjares)
7. Update on Community Garden (Flynn) – *Tentatively Scheduled for 9/26*
8. Update on Street Sign Replacements (Flynn) – *Tentatively Scheduled for 9/26*
9. ARE Animal Rescue Contract (Flynn) – *Tentatively Scheduled for 10/24*
10. Policy to Ban Personal Phones on Dais (Flynn) – *Tentatively Scheduled for 10/10*
11. Public Notification Policy for Development Projects (Flynn) – *Tentatively Scheduled for 9/26*

**11. ADJOURNMENT**

***Next Regular Meeting – September 26, 2023 at 5:00 p.m.***

**Zoom Community Standards for Public Meetings**

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

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

**Estándares comunitarios de Zoom para Reuniones Públicas**

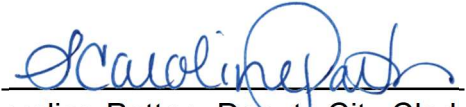
*Al participar en esta reunión en Zoom, usted acepta cumplir con los Estándares Comunitarios para Reuniones Públicas de la ciudad de Banning. Los que atienden por Zoom que no cumplan con estos estándares pueden ser retirados de la sala de reuniones.*

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



### **AFFIDAVIT • DECLARACIÓN JURADA**

IT IS HEREBY CERTIFIED under the laws of the State of California that the above agenda was posted on the City's website ([www.banningca.gov](http://www.banningca.gov)) as well as the Bulletin Board at Banning City Hall, located at 99 E Ramsey Street, Banning, CA 92220 by 5:00 P.M. on the 8th day of September 2023.



Caroline Patton, Deputy City Clerk  
Secretario adjunto de la ciudad

### **PUBLIC NOTICE • NOTICIA PÚBLICA**

#### **Meeting Agendas and Notices**

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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.

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

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

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

### **CONTACT • CONTACTO**

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



**CITY OF BANNING  
OFFICE OF THE MAYOR**



# **Proclamation**

***WHEREAS**, the United States has observed “Hispanic Heritage Week” since 1968 and “Hispanic Heritage Month” since 1988; and*

***WHEREAS**, Hispanic Heritage Month celebrates the histories, cultures, and contributions of those whose ancestors were indigenous to North America as well as Spain, Mexico, the Caribbean, and Central and South America; and*

***WHEREAS**, the purpose of Hispanic Heritage Month is to create awareness of the 500 years of cultural contributions of people of Hispanic Heritage to the American culture; and*

***WHEREAS**, many people of Hispanic Heritage have and continue to serve this community as leaders, organizers, first responders, teachers, healthcare professionals, athletes, inventors, entrepreneurs and more; and*

***WHEREAS**, the City of Banning is fortunate to have a large number of residents of Hispanic Heritage who strengthen our culture, economy, and contribute to our daily lives; and*

***WHEREAS**, the City wishes to honor their achievements while continuing efforts to ensure the City is a welcoming and inclusive place with opportunities for all; and*

***NOW THEREFORE**, the City Council of the City of Banning, does hereby proclaim:*

## ***Hispanic Heritage Month September 15 – October 15, 2023***

*in the City of Banning and encourages citizens of Banning to increase their cultural awareness by learning the important contributions of people of Hispanic Heritage to the City of Banning.*

***BE IT PROCLAIMED** this 12<sup>th</sup> day of September 2023.*

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***Alberto Sanchez, Mayor***



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 12, 2023

**SUBJECT:** Minutes of the August 15 and August 22, 2023 City Council Meetings

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**RECOMMENDATION:**

Approve the minutes of the August 15 and August 22, 2023 City Council Meetings.

**ALTERNATIVES:**

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

**ATTACHMENTS:**

1. Minutes of the August 15, 2023 Special City Council Meeting – Workshop  
[https://banningca.gov/DocumentCenter/View/13312/2023-08-15\\_Minutes\\_Special-Meeting---Workshop](https://banningca.gov/DocumentCenter/View/13312/2023-08-15_Minutes_Special-Meeting---Workshop)
2. Minutes of the August 22, 2023 Special City Council Meeting – Closed Session  
[https://banningca.gov/DocumentCenter/View/13316/2023-08-22\\_Minutes\\_Special-Meeting---Closed-Session](https://banningca.gov/DocumentCenter/View/13316/2023-08-22_Minutes_Special-Meeting---Closed-Session)
3. Minutes of the August 22, 2023 Regular City Council Meeting – Workshop  
[https://banningca.gov/DocumentCenter/View/13314/2023-08-22\\_Minutes\\_Special-Meeting---Workshop](https://banningca.gov/DocumentCenter/View/13314/2023-08-22_Minutes_Special-Meeting---Workshop)
4. Minutes of the August 22, 2023 Regular City Council Meeting  
[https://banningca.gov/DocumentCenter/View/13315/2023-08-22\\_Minutes\\_Regular-Meeting](https://banningca.gov/DocumentCenter/View/13315/2023-08-22_Minutes_Regular-Meeting)

Approved by:

Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

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

**PREPARED BY:** Lincoln Bogard, Administrative Services Director  
Cheryl Stafford, Finance Manager

**MEETING DATE:** September 12, 2023

**SUBJECT:** Approval and Ratification of Accounts Payable and Payroll  
Warrants Issued during the Month Ending July 31, 2023

### **RECOMMENDATION:**

That City Council review and ratify the warrants for period ending **July 31, 2023**, per California Government Code Section 37208.

### **WARRANT SUMMARY:**

| Description                                | Payment #       | Amount          | Total Amount            |
|--|-----------------|-----------------|-------------------------|
| <b>Checks:</b>                             |                 |                 |                         |
| Checks Issued during Month                 | 187744-188014   | \$ 5,427,510.16 |                         |
| Voided / Reissue Check                     |                 | \$ 2,400.00     |                         |
| <b>Check Total</b>                         |                 |                 | <b>\$ 5,425,110.16</b>  |
|  |                 |                 |                         |
| <b>Wires Total</b>                         | <b>1118</b>     |                 | <b>\$ 1,127,950.57</b>  |
| <b>ACH payments:</b>                       | 9007596-9007624 |                 |                         |
| Payroll Direct Deposit                     | 7/14/2023       | \$ 581,123.46   |                         |
| Payroll Direct Deposit                     | 7/21/2023       | \$ 88,260.42    |                         |
| Payroll Direct Deposit                     | 7/28/2023       | \$ 580,808.24   |                         |
| Other Payments                             |                 | \$ 5,015,354.04 |                         |
| <b>ACH Total</b>                           |                 |                 | <b>\$ 6,265,546.16</b>  |
| <b>Payroll Checks:</b>                     | 13110-13171     |                 |                         |
| Payroll - Regular                          | 7/14/2023       | \$ 15,595.40    |                         |
| Payroll - Regular                          | 7/28/2023       | \$ 16,465.30    |                         |
|  |                 |                 |                         |
| <b>Payroll Check Total</b>                 |                 |                 | <b>\$ 32,060.70</b>     |
|  |                 |                 |                         |
| <b>Total Warrants Issued for July 2023</b> |                 |                 | <b>\$ 12,850,667.59</b> |

**ATTACHMENTS:**

1. Fund List  
<https://banningca.gov/DocumentCenter/View/13334/Attachment-1---Fund-List>
2. Warrant Report July 2023  
<https://banningca.gov/DocumentCenter/View/13335/Attachment-2-Warrant-Report-July-2023>
3. Warrant Report Detail July 2023  
<https://banningca.gov/DocumentCenter/View/13332/Attachment-3-Warrant-Report-Detail-July-2023>
4. Voided Check Log, Payroll Log & Registers – July 2023  
<https://banningca.gov/DocumentCenter/View/13333/Attachment-4-Void-Check-Log-Payroll-Log-and-Payroll-Registers>

Approved by:

A handwritten signature in black ink, appearing to read "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

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

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

**MEETING DATE:** September 12, 2023

**SUBJECT:** Receive and File Cash, Investments and Reserve Report for the  
Month of July 2023

### **RECOMMENDATION:**

That City Council receive and file Cash, Investment and Reserve Report for July 2023 on this day, **September 12, 2023**, in accordance with California Government Code 53646. The city's investment portfolio is compliant with its Investment Policy and Pooled Cash is expected to meet all disbursement requirements for the next six months.

### **UNRESTRICTED CASH AND INVESTMENTS:**

| Cash & Investments  | June 2023               | July 2023               |
|---|-------------------------|-------------------------|
| Institution/Investment Type   | Balance                 | Balance                 |
| <b>UNRESTRICTED CASH AND INVESTMENTS</b>                                      |                         |                         |
| <b><u>Funds Under Control of the City:</u></b>                                |                         |                         |
| Petty Cash / Cash on Hand   | \$ 4,055.00             | \$ 4,055.00             |
|   | <b>\$ 4,055.00</b>      | <b>\$ 4,055.00</b>      |
| Checking and Savings:   |                         |                         |
| Wells Fargo - General Account - XXXX5798                                      | \$ 8,060,405.73         | \$ 3,933,327.93         |
| Bank of America - Parking Citations - XXXXXXXX 8776                           | \$ 139,343.05           | \$ 139,782.24           |
| Bank of America - Airport Visa - XXXXXXXX 7548                                | \$ 512,899.69           | \$ 516,609.81           |
| Bank of America - CNG Charge Acct XXXXXXXX 5594                               | \$ 80,143.30            | \$ 80,022.50            |
|   | <b>\$ 8,792,791.77</b>  | <b>\$ 4,669,742.48</b>  |
| <b><i>See Investment Report for Details of the following Investments:</i></b> |                         |                         |
| State of California, Local Agency Investment Fund                             | <b>\$ 27,722,955.50</b> | <b>\$ 27,722,955.50</b> |
| % of Investments in LAIF  | 58%                     | 58%                     |
| US Bank   |                         |                         |
| City of Banning Custody Account XXXX6000                                      | <b>\$ 20,330,486.77</b> | <b>\$ 20,345,253.73</b> |
| <b>Total Unrestricted Cash and Investments</b>                                | <b>\$ 56,850,289.04</b> | <b>\$ 52,742,006.71</b> |

## **RESTRICTED CASH AND INVESTMENTS:**

| <b>Cash &amp; Investments</b>   | <b>June 2023</b>        | <b>July 2023</b>        |
|---|-------------------------|-------------------------|
| <b>RESTRICTED CASH AND INVESTMENTS</b>  |                         |                         |
| <b>Cash with Fiscal Agents</b>  |                         |                         |
| <b>US Bank</b>  |                         |                         |
| 2015 Water Revenue Bonds-BUA Water Projects - 258228005   | \$ 825,763.73           | \$ 828,856.43           |
| 2019 Wastewater Revenue Bond - 254226002  | \$ 230,024.46           | \$ 230,028.35           |
| 2019 Wastewater Revenue Bonds 254226000   | \$ 1.69                 | \$ 1.69                 |
| 2019 Wastewater Revenue Bonds - BUA Water Projects - Previous Balance less amount required for Refunding - 254226006  | \$ 2,502,723.32         | \$ 2,502,743.89         |
| 2015 Water Revenue Bonds-BUA Water Projects - 258228000   | \$ 2,495.83             | \$ 2,505.18             |
| 2015 Electric Revenue Bond-Acquisition & Construction Fund - 262685003  | \$ 701,199.11           | \$ 703,825.29           |
| 2015 Electric Revenue Bond-Acquisition & Construction Fund - 262685000  | \$ 4,672.64             | \$ 4,690.14             |
| Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Bonds Series 2016 (Taxable) Unexpended Proceeds Fund - 277166005 | \$ 7,686,995.26         | \$ 7,687,026.85         |
| 2015 Electric Revenue Bond-Reserve Fund - 262685002 - Market Value  | \$ 2,428,543.76         | \$ 2,428,543.76         |
| Improvement Dist No 2004-1 (Fair Oaks Ranch Estates) Limited Obligation Improvement Bonds Series 2005A Principal Acct-789582001                               | \$ 28,277.85            | \$ 28,277.97            |
| Improvement Dist No 2004-1 (Fair Oaks Ranch Estates) Limited Obligation Improvement Bonds Series 2005A Reserve Fund-789582003                                 | \$ 186,062.20           | \$ 186,054.47           |
| Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Bonds Series 2016 (Taxable) Reserve Fund- 277166004 Market Value | \$ 2,205,497.50         | \$ 2,205,497.50         |
| Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Bonds Series 2016 (Taxable) Revenue Fund - 277166000             | \$ -                    | \$ -                    |
| CAISO - City of Banning XXXX6994  | \$ 119,473.77           | \$ 120,474.38           |
| City of Banning - XXXX5920 - RPU  | \$ 1,151,478.05         | \$ 784,516.10           |
| <b>Cash with Fiscal Agents - US Bank</b>  | <b>\$ 18,073,209.17</b> | <b>\$ 17,713,042.00</b> |
| <b>Restricted Investment in SCPPA Project Stabilization Fund</b>  |                         |                         |
| Project Stabilization Fund (added to report as of January 2020)   | \$ 3,176,262.16         | \$ 3,080,144.52         |
| <b>Total Restricted Cash and Investments</b>  | <b>\$ 21,249,471.33</b> | <b>\$ 20,793,186.52</b> |
| <b>Grand Total Cash and Investments</b>   | <b>\$ 78,099,760.37</b> | <b>\$ 73,535,193.23</b> |

The City has historically reported fund balance classifications as cash restrictions. They are separate items and have independent restrictions. In the classification of "Restricted Funds" above, staff have listed all cash citywide that meets the definition of Restricted Cash and Investments per Generally Accepted Accounting Principles in the United States (GAAP). The Committed, Assigned, and Reserved Fund restrictions are only restrictions on Fund Balances, not Cash. Going forward, staff will present the investment report considering only Restricted and Unrestricted Cash and Investments. Those are the only two classifications for cash according to Government Accounting Standard (GASB) 34 - Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments.

## **ATTACHMENTS:**

1. Cash, Investment and Reserve Report July 2023  
<https://banningca.gov/DocumentCenter/View/13346/Attachment-1-Cash-Investment-and-Reserves-July-2023>
2. Investment Report <https://banningca.gov/DocumentCenter/View/13347/Attachment-2-Investment-Report-July-2023>

3. LAIF Market Valuation Report  
<https://banningca.gov/DocumentCenter/View/13343/Attachment-3--City-of-Banning-Broker-Report-July-2023>
4. LAIF Market Valuation  
<https://banningca.gov/DocumentCenter/View/13344/Attachment-4-LAIF-Market-Valuation-July-2023>
5. PMIA and LAIF Performance Report  
<https://banningca.gov/DocumentCenter/View/13345/Attachment-5-PMIA-LAIF-Performance-Report-July-2023>

Approved by:

A handwritten signature in black ink, appearing to read "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager





## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Derek Thesier, Acting Chief of Police  
Brandon Smith, Police Lieutenant

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-156, Accepting a Department of Alcoholic Beverage Control (ABC) 2023/2024 Alcohol Policing Partnership (APP) Grant Award of \$60,000

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### **RECOMMENDATION:**

Staff recommend the City Council approve Resolution 2023-156 authorizing the acceptance of the Department of Alcoholic Beverage Control (ABC) 2023/2024 Alcohol Policing Partnership (APP) Grant award in the amount of \$60,000 for the enforcement of alcohol related crimes in the City of Banning, the purchase of training and educational aids for community outreach opportunities, and staff training related to the enforcement and reporting of alcohol related crimes.

### **BACKGROUND:**

In 2023, the Banning Police Department submitted a grant proposal with the State of California Alcoholic Beverage Control (ABC) to assist with combating problems associated with underage drinking. This grant will allow the Banning Police Department to partner with ABC and jointly bring a positive impact to the City of Banning with regards to alcohol related issues, including underage drinking. The grant was awarded to the Banning Police Department on 07-05-2023, with an implementation date of 07-01-2023 pending Council Approval.

### **JUSTIFICATION:**

The acceptance of grant funds allows the Banning Police Department to conduct special enforcement activities in conjunction with ABC Agents within the City of Banning to foster a safer community for citizens and visitors. The grant funds will also allow Banning Police Department staff members to conduct special community outreach and educational events related to alcohol and alcohol related crimes.

**FISCAL IMPACT:**

The ABC APP Program Grant Proposal Form was completed and sent to ABC for review and approval. The Banning Police Department has been awarded \$60,000 through the APP. There is no matching requirement related to the grant funding.

**ALTERNATIVES:**

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

**ATTACHMENTS:**

1. Resolution 2023-156  
<https://banningca.gov/DocumentCenter/View/13336/Att-1-Resolution-2023-156-Acceptance-of-2023-ABC-APP-Grant>
2. Grant Agreement for the 2023/2024 ABC APP Grant Funding  
<https://banningca.gov/DocumentCenter/View/13337/Att-2-Grant-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  
Perry Gerdes, Water/Wastewater Superintendent

**MEETING DATE:** September 12, 2023

**SUBJECT:** Authorize the City Manager to Sign the Notice of Completion for Project No. 2022-09W, "Altitude Valves at the San Gorgonio Reservoirs" as Complete and Direct the City Clerk to Record the Notice of Completion

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### **RECOMMENDATION:**

That the City Council accept Project No. 2022-09, "Altitude Valves at the San Gorgonio Reservoirs" as complete, authorize the City Manager or his designee to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

### **BACKGROUND:**

Staff solicited bids for the purchase and installation of two 20" altitude valves and received three (3) bids. On July 12, 2022 a Construction Agreement with Canyon Springs Enterprises for Project No. 2022-09W, "Installation of Two 20" Altitude Valves" was approved in the amount of \$552,975 and a 10% contingency amount of \$55,297.50.

The principal item of work includes the installation of two 20" altitude valves and enclosure, wiring from the reservoirs to the valves and then to the Supervisory Controlled and Data Acquisition (SCADA) system.

### **JUSTIFICATION:**

The lowest qualified bidder, Canyon Springs Enterprises was awarded a Construction Agreement. The required work was completed on June 30, 2023. Public Works staff verified through inspections that the workmanship, materials, and procedures were satisfactory, and that the contractor had met the required contract obligations.

### **FISCAL IMPACT:**

The original contract was awarded in the amount of \$552,975 and with one change order for \$36,034.59 the final contract amount for this project is \$589,009.59, within the approved construction budget of \$608,272.50. The contract was partially funded by a

Proposition 1 – Round 1 Integrated Regional Water Management Implementation grant in the amount of \$481,792.

**ALTERNATIVE:**

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

**ATTACHMENTS:**

1. Notice of Completion

<https://banningca.gov/DocumentCenter/View/13331/Attachment-1---NOC-Project-No-2022-09W>

Approved by:

A handwritten signature in black ink, appearing to read "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-09 UA, Approving the Sixth Amendment to the Maintenance and Operations Agreement with Veolia Water Contract Operations USA, Inc. to Extend the Term of the Agreement for Three Additional Years

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### **RECOMMENDATION:**

Staff Recommends that the Banning Utility Authority adopt Resolution 2023-09 UA:

1. Approving the Sixth Amendment to the Maintenance and Operations Agreement with Veolia Water Contract Operations USA, Inc. to extend the term of the agreement for three (3) additional years and thereby amending the termination date of the original Agreement to September 30, 2026.
2. Authorizing the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to Resolution 2023-09 UA.
3. Authorizing the City Manager to execute the Sixth Amendment to the Maintenance and Operations Agreement with Veolia Water Contract Operations USA, Inc.

### **BACKGROUND:**

The City of Banning has outsourced the operation and maintenance of the Wastewater Treatment Plant (WWTP) since 1993. Additional background on the various contracts and related amendments can be found in Attachment 2.

Since outsourcing the operations and maintenance of the WWTP in 1993, the City has maintained compliance with the Waste Discharge Requirements (WDR) issued to the City by the California Regional Water Quality Control Board (RWQCB). Suez has also contributed to the City being the recipient of several regional awards such as, the WWTP Plant of the Year in 2007 (less than 5 MGD) and 2nd place for this same award in 2008. Additionally, in 2008 the WWTP received a safety award from the Colorado River Basin Section for its operation procedures. Again in 2016, the WWTP received the Plant of the Year (less than 5 MGD) award.

On September 22, 2020, the Banning Utility Authority approved Resolution 2020-10 UA, approving the “Fourth Amendment to the Maintenance and Operations Agreement with Suez Water Environmental Services, Inc. to extend the term of the agreement for two (2) additional years and thereby amending the termination date of the original Agreement to September 30, 2022 with the option to renew for an additional three (3) years.”

Subsequently, on July 12, 2022 the Banning Utility Authority approved Resolution 2022-08 UA, approving the “Fifth Amendment to the Maintenance and Operations Agreement with Veolia Water Contract Operations USA, Inc. to Extend the Term of the Agreement for One Year” extending the term to September 30, 2023. It should be noted that Suez Water Environmental Services, Inc. changed it’s name to Veolia Water Contract Operations USA, Inc. (Veolia).

#### Scope of Work

Veolia, under the Current Agreement, is responsible for the operation and maintenance of the City’s WWTP and four wastewater lift stations located throughout the City. As stated in the Current Agreement, Suez is responsible for several maintenance activities including treatment plant equipment maintenance, building maintenance and site maintenance. Suez is responsible for providing five (5) full-time employees to staff the WWTP seven (7) days a week, eight (8) hour days including providing the City with twenty-four (24) hour, seven (7) days per week, on-call operational coverage. In addition to the five (5) full time employees Veolia also provides technical assistance utilizing their professional in-house resources for various wastewater programs such as pre-treatment, industrial waste discharges, preventative maintenance and capital improvement planning.

Further details of the Veolia’s contract obligations are identified in the Current Agreement included herein as Attachment 4.

The Department of Public Works is currently in the planning phase for a major capital improvement project at the WWTP which will include construction of capacity improvements and advanced treatment processes for the purpose of complying with upcoming regulatory requirements and producing recycled water. Said improvement will likely render the existing scope of work included in the current agreement with Veolia as insufficient. At some point in the development of the WWTP improvement project Public Work’s staff will solicit proposals with a new and increased scope of work for the operation and maintenance of the improved WWTP.

#### **JUSTIFICATION:**

Since 1993 Veolia and it’s predecessors (i.e. JMM, United Water and Suez) have proven to be a responsible contractor capable of effectively and successfully managing the operation and maintenance of the City’s WWTP. The existing contract is set to expire on September 30, 2023 and it is essential that the City preserve the continued operation and maintenance of the WWTP.

The Sixth Amendment, if approved, will allow the continued operation and maintenance of the City's WWTP until September 30, 2026. The City expects to be well under construction of the WWTP improvements before the new term expires. Prior the expiration of the term and per City Council's direction, staff will either solicit new proposals for an update scope of work or negotiate a new agreement with Veolia. For this reason staff is requesting a three year term extension.

Amendment 6 will also include the addition of the operation and maintenance of a new lift station on Wilson Street scheduled to be commissioned in September, 2023. Veolia has agreed to add this additional site at no additional cost to the City.

### **FISCAL IMPACT:**

The Department of Public Works, Wastewater Division Operations Fund, Account No. 680-8000-454.23-38 (contracted wastewater plant services) will continue to fund the Operation and Maintenance Agreement. The required funding has been included in the approved Fiscal Year 2023/2024 budget and will be included in the future Fiscal Year 2024/2025 and 2025/2026 budget. The base annual agreement for Fiscal Year 2023/2024 is for an amount of \$881,103 which will be adjusted on July 1, 2024, and every July 1<sup>st</sup> thereafter, based on the Consumer Price Index (CPI) as allowed by the current agreement.

The following costs are annual estimates based on a 5% CPI adjustment:

| <u>Fiscal Year</u> | <u>Annual Cost</u> |
|--------------------|--------------------|
| 2023/2024          | \$892,223          |
| 2024/2025          | \$936,834          |
| 2025/2026          | \$983,676          |

### **ALTERNATIVES:**

1. Adopt Resolution 2023-09 UA as recommended.
2. Adopt Resolution 2023-09 UA with modifications.
3. Do not approve Resolution 2023-09 UA and provide alternative direction to staff.

### **ATTACHMENTS:**

1. Resolution 2023-09 UA  
<https://banningca.gov/DocumentCenter/View/13375/Attach-1-2023-09-UA-Veolia-Sixth-Amendment>
2. July 12, 2022 Staff Report  
<https://banningca.gov/DocumentCenter/View/13376/Attach-2-SR-2022-08UA-Veolia-Contract-Amendment>
3. Current Agreement  
<https://banningca.gov/DocumentCenter/View/13374/Att-3-Current-Agreement-Including-Amendments-1-2-3-4-5>

4. Draft Amendment #6

<https://banningca.gov/DocumentCenter/View/13373/Attach-4-Banning-Veolia---Amendment-6-DRAFT-82823>

Approved by:

A handwritten signature in black ink, appearing to read "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager





## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 12, 2023

**SUBJECT:** Second Reading and Adoption of Ordinance 1594, An Ordinance of the City of Banning, California, Amending Section 2.28.080 of Chapter 2.28 of Title 2 of the Banning Municipal Code Regarding the Regular Meeting Time of the Banning Planning Commission, and Making a Determination of Exemption under CEQA Guidelines Sections 15061(b)(3) and 15378(b)(5)

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### **RECOMMENDATION:**

Conduct Second Reading and Adopt Ordinance 1594, an Ordinance of the City of Banning, California, amending Section 2.28.080 of Chapter 2.28 of Title 2 of the Banning Municipal Code regarding the regular meeting time of the Banning Planning Commission, and Making a Determination of Exemption under CEQA Guidelines Sections 15061(b)(3) and 15378(b)(5).

### **BACKGROUND:**

On September 14, 2010, the City Council adopted Ordinance 1427, changing the Banning Planning Commission's regular meeting day to the first Wednesday of each month (while maintaining the current meeting start time of 6:30 p.m.). During the June 7, 2023 regular Planning Commission meeting, the Planning Commission and the Community Development Director determined that the Commission would be better served by a regular meeting start time of 5:30 p.m. rather than 6:30 p.m., pending the City Council's approval. The Planning Commission and staff are not recommending a change to the Commission's regular meeting day (e.g., first Wednesday of each month).

Ordinance 1594 was scheduled for second reading and adoption during the August 22, 2023 City Council meeting. Subsequent from this meeting, staff determined that the required "Pre-Adoption Ordinance Summary" was insufficient and needed correction. This summary was update and republished in the Record Gazette in time for the September 12, 2023 City Council Meeting.

### **JUSTIFICATION:**

The City of Banning is experiencing tremendous growth across all sectors of land use (i.e., residential, commercial, and industrial). Furthermore, Planning staff is also processing an update to both the General Plan Land Use and Circulation Elements as well as several Zoning Code amendments, all of which requires review, consideration, oversight, and action by the Commission.

A recent Planning Commission regular meeting concluded at approximately 1:30 a.m. Because of this recent late meeting, the Community Development Director recommended that the Commission change the regular meeting start time from 6:30 p.m. to 5:00 p.m. or 5:30 p.m. After discussion and deliberation, the Commission determined that starting the Commission's regular meetings at **5:30 p.m.** would better serve the Commission.

### **Analysis:**

In order to effectuate the proposed change in the Planning Commission's regular meeting time, the Council must introduce and adopt an Ordinance amending Section 2.28.080 of the Banning Municipal Code. The attached proposed Ordinance 1594, if adopted, would amend Section 2.28.080 as follows:

#### **"2.28.080 – Meeting times and places.**

- A. The planning commission shall meet on the first Wednesday of each month at ~~6:30 p.m.~~ 5:30 p.m. at the city council chambers located at 99 E. Ramsey Street, or at such time and place as the commission may designate by resolution.
- B. Commissioners will attend special meetings as they arise."

### **FISCAL IMPACT:**

Staff anticipates the change to Commission's regular meeting start time will result in a cost savings as the Commission's regular meetings may potentially conclude earlier, reducing the amount of staff overtime that is accrued.

### **ATTACHMENTS:**

1. Ordinance 1594  
[https://banningca.gov/DocumentCenter/View/13348/1-Banning---Ordinance-1594-2nd-Reading\\_PC-Meeting-Date-and-Time](https://banningca.gov/DocumentCenter/View/13348/1-Banning---Ordinance-1594-2nd-Reading_PC-Meeting-Date-and-Time)
2. Notice of Exemption (NOE)  
<https://banningca.gov/DocumentCenter/View/13349/2-NOE>
3. Proof of Publication  
<https://banningca.gov/DocumentCenter/View/13398/Att-3-Proof-of-Publication>

Approved by:



Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-163, Approving the Amended Agreement for Participation in the County of Riverside's Urban County Program for Fiscal Years 2024-2025, 2025-2026, and 2026-2027

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### **RECOMMENDATION:**

It is recommended that City Council adopt Resolution 2023-163:

1. Approving the amended agreement for the participation in the County of Riverside's Urban County Program for Fiscal Years 2024-2025, 2025-2026, and 2026-2027.
2. Authorizing the Mayor to execute the amended agreement.
3. Authorizing the City Manager to execute any future minor amendments to this agreement.

### **BACKGROUND:**

The City has historically participated in the Riverside County Urban County Program as a source of funding for community and neighborhood programming and revitalization. Riverside County acts as a direct conduit administering CDBG funds directly to participating cities through the program.

Every year, the City notifies the public and past applicants of the upcoming funding availability, which also encourages applications for potential programs and physical improvements tied to funding requirements.

Entitlement Funding for the County is determined by a formula based upon several criteria, including: housing inventory, population, and poverty levels. The County then utilizes a similar formula for cities participating in the Urban County Program.

On July 11, 2023, the City Council approved Resolution 2023-133 Approving participation in the Urban County Cooperation Agreement. On September 7, 2023 the City was informed the original agreement approved and executed by the City included some minor

errors that require the City to execute a revised agreement and resolution. The errors are as follows:

**NOW THEREFORE**, the parties agree to amend the Cooperation Agreement for the Community Development Block Grant, for fiscal years 2024-25, 2025-26, and 2026-27 as follows:

1. COMPLIANCE WITH FEDERAL STATUTES, REGULATIONS AND OTHER APPLICABLE STATUTES, REGULATIONS AND ORDINANCE.
  - a. COUNTY and CITY agree to cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities.
  - b. COUNTY and CITY agree to take all actions necessary to assure compliance with the urban county's certification under section 104(b) of Title I of the Housing and Community Development Act of 1974, that the grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964, and the implementing regulations at 24 CFR part 1, and the Fair Housing Act, and the implementing regulations at 24 CFR part 100, and will affirmatively further fair housing. See 24 CFR § 91.225(a) and Affirmatively Furthering Fair Housing Definitions and Certifications (86 FR 30779, June 10, 2021), to be codified at 24 CFR 5.151 and 5.152; and available at <https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications>.
  - c. COUNTY and CITY agree to comply with section 109 of Title I of the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR part 6, which incorporates Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR part 8, Title II of the Americans with Disabilities Act, and the implementing regulations at 28 CFR part 35, the Age Discrimination Act of 1975, and the 14 implementing regulation at 24 CFR part 146, and Section 3 of the Housing and Urban Development Act of 1968.
  - d. COUNTY AND CITY agree to comply with other applicable laws.
  - e. COUNTY AND CITY agree that CDBG urban county funding is prohibited for activities in, or in support of, any cooperating unit of general local government that does not

affirmatively further fair housing within its own jurisdiction or that impedes the county's actions to comply with the county's fair housing certification.

2. PROHIBITION OF CDBG FUND TRANSFERS

The CITY may not sell, trade, or otherwise transfer all or any portion of the CDBG funds to another such cooperating city, metropolitan city, urban county, or Indian tribe, that **directly or indirectly** receives CDBG funds in exchange for any other funds, credits, or non-Federal considerations, CITY must use the CDBG funds for activities eligible under Title I of the ACT.

3. ELECTRONIC SIGNATURE

Each party of this Amendment to Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (“CUETA”) Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The parties further agree that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

In the event that any signature is delivered by facsimile or electronic transmission, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as though such facsimile or electronic signature page were an original thereof.

The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as, an original signature, and will have the same effect, as an original signed copy of this document. This Acknowledgement may be amended or modified only by a written instrument signed by authorized representatives of both Parties.

**JUSTIFICATION:**

By approving the Cooperating Agreement, the City can continue to receive an annual entitlement for the next three (3) fiscal years. Each year the entitlement amount varies but is approximately \$191,264 that can be used for community benefit and associated programs.

**FISCAL IMPACT:**

Possible loss of \$191,264 for the current funding year

**ALTERNATIVES:**

1. Adopt Resolution 2023-163 as recommended.
2. Adopt Resolution 2023-163 with modifications.
3. Do not approve Resolution 2023-163 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-163  
<https://banningca.gov/DocumentCenter/View/13415/Att-1-Resolution-2023-163-Amending-Cooperation-Agreement>
2. Amended Cooperation Agreement  
<https://banningca.gov/DocumentCenter/View/13416/Att-2-City-of-Banning-AMENDED---Cooperation-Agreement-2024-2026>
3. Resolution 2023-133  
<https://banningca.gov/DocumentCenter/View/13413/Att-3-CC-Resolution-No-2023-133>
4. Original Cooperation Agreement  
<https://banningca.gov/DocumentCenter/View/13414/Att-4-CDBGHIPPESG-2024-2027>

Approved by:



Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of the Second Reading and Adoption of Ordinance 1595, Amending Chapters 8.16 of the Banning Municipal Code by Adopting by Reference, with Amendments to Chapter 1, Section 105.3.1 and 108.2 of the 2022 Edition of the California Fire Code, to Incorporate Annual Inspections of Existing and Future Businesses and Their Operations, located in the City of Banning.

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### **RECOMMENDATION:**

1. Adopt the Notice of Exemption (NOE) which determines that Ordinance No. 1595 is not subject to CEQA, pursuant to Section 15060(c)(3) of the California Environmental Quality Act (CEQA); and
2. Conduct a public hearing on Ordinance No. 1595 in accordance with Gov. Code, § 50022.3. Close the public hearing and adopt Ordinance No. 1595, Amending Chapter 8.16 of the Banning Municipal Code by adopting by reference, with Amendments to Chapter 8.16.020 to add language to § 105.3.1 of the Fire Code.

### **BACKGROUND:**

The City of Banning contracts with Riverside County for both Fire Suppression and Protection Services. As part of this contract, Riverside County provides qualified and experienced staff to provide fire protection and prevention services through the review of codes, examination of plans, issuance of permits, and scheduling of inspections for a wide variety of land uses.

The City contracts for one full-time equivalent (FTE) *Fire Safety Specialist*, which is currently a vacant position but is being back-filled by an *Assistant Fire Marshal* while a recruitment is underway. This single staff member is responsible for all fire safety related matters in the City and essentially serves as the “Banning Fire Marshal”. As the City grows, the need for additional staffing becomes evermore critical. An increase in fire prevention staff will provide the opportunity for the City to fulfill inspection-related services, to businesses on an annual basis, that is not being conducted at this time.

Each year, the Banning Fire Marshal conducts “state-mandated” fire safety inspections on select business, as specified by law. These land uses include “Residential Care Facilities” (e.g., Congregate and Residential Care Facilities, Transitional Living Facilities, Nursing Homes), “Schools”, “Hospitals”, and “Apartment Buildings”, to name a few. The majority of City businesses do not receive an annual inspection, although it is a prudent measure and has only been deferred due to limited staffing resources.

Recently the City decided to initiate an amendment to the County Fire Services Contract which will add one (1) full-time Assistant Fire Marshal to the existing Fire Safety Specialist position. By utilizing two (2) FTEs, the City is able to conduct annual inspections of all qualified businesses within the City, a measure that will aide in code compliance and support the reduction of vacant and distressed buildings and businesses within the City.

On July 11, 2023, the City Council conducted the First Reading and Introduced Ordinance 1595. Pursuant to Gov. Code, § 50022.3, Amendment to the California Building Code require a Public Hearing to be conducted during the Second Reading.

**JUSTIFICATION:**

The Fire Code Amendments will allow the regular and routine inspection of qualified businesses and business operations within the City. Creating the annual inspection program will positively contribute to the protection of life and property within the City.

**FISCAL IMPACT:**

Staff time dedicated to the review and update by ordinance is nominal.

| <u>Year</u> | <u>Estimated Amount</u> |
|-------------|-------------------------|
| 2022/2023   | \$3,500                 |
| 2023/2024   | \$0                     |

**ALTERNATIVES:**

1. Choose not to waive full reading and introduce proposed Ordinance 1595.
2. Continue the item and request clarification from or provide direction to staff.
3. Take the agenda item off calendar and provide direction to staff.

**ATTACHMENTS:**

1. Ordinance 1595  
<https://banningca.gov/DocumentCenter/View/13350/1-Banning---2022-Building-Standards-Code-Adoption-Ordinance-Fire-Code>
2. Notice of Exemption (NOE)  
<https://banningca.gov/DocumentCenter/View/13351/2-NOE>
3. Proof of Publication  
<https://banningca.gov/DocumentCenter/View/13399/Att-3-Proof-of-Publication>



Approved by:

A handwritten signature in black ink, reading "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Introduction and First Reading of Ordinance 1596, Establishing Amended Uses and Adding Development Standards for Multi-family and High-Density Residential Uses in the Downtown Commercial Zoning District

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### **RECOMMENDATION:**

Waive full reading and introduce, as read by title only, Ordinance 1596, An Ordinance of the City of Banning, California, Amending the Downtown Commercial Zoning District (Title 17, Division II, Chapter 17.12, Article I & II By Adding New Permitted and Conditionally Permitted Uses to Table 17.12.020 and Amendment the Commercial and Industrial Development Standards (Table 17.12.030, Table 17.12.050, Chapter 17.12.060 and 17.12.070, and Making a Determination of Exemption from the California Environmental Quality Act (CEQA). This Ordinance Amendment Affects All Parcels Within the Downtown Zoning District (DC).

### **BACKGROUND:**

Downtown Banning has limited multifamily housing options. The City has not developed new multifamily rental properties in over twenty years, and currently has only **471 market-rate multifamily rental units**. According to the National Association of Realtors®, *The U.S. rental vacancy rate edged slightly higher to 7.1 percent in 2018 Q3, but this is still below the 7.5 percent vacancy rate in 2017 Q3. The U.S. rental vacancy rate averaged 9.6 percent from 2000 Q1 through 2011 Q4, so rental vacancy rates are still trending below historical levels. Low vacancy rates indicate that the multi-family real estate market still has a growth potential in several metros in 2019.*<sup>1</sup> Since 2020, there has been a surge of over a 1,000 single-family homes permits issued in the City. In contrast, the City has not issued a new construction permit, for multi-family dwellings, in over five years. In order

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<sup>1</sup> Multi-family Rental Market Still Strong in Many Metros in 2019., *National Association of Realtors*. March 5, 2019.

to satisfy the requirements under the City's Housing Element, a greater diversity of housing stock is necessary.

### *Creating and Preserving Destinations:*

Existing destinations are those uses which currently attract a significant number of people, such as City Hall, Central Elementary School, and Banning Village Market are examples of destinations of necessity, while the Fox Theater and Station Tap House Bar and Grill are examples of leisure destinations where people come for a particular experience. Several of the uses which attract the largest number of people are destinations which contain uses or structures not compatible with a downtown urban design setting. These “pass-through assets” are more likely to be visited for a short period of time, with on-site parking leading to a “grab and go” type of experience which provides less opportunities to capture greater amounts of visitor time and expenditure. Examples are Jack in the Box and Parts Authority, an auto parts store which is one of the highest sales tax generator in the Downtown District.



① Fox Cineplex is D'Place



② The Station Taphouse Bar and Grill



③ Jitterz Coffee at The Haven

### *Good Quality Buildings:*

The City of Banning was incorporated in 1913, and much of the building fabric of Downtown dates from the years prior to World War II, when development in the American Main Street tradition was at its peak. This town-building tradition, which incorporated various architectural styles, prioritized one and two-story storefront buildings which open onto sidewalks and engage the street with transparent windows, creating a human scale and pedestrian orientation which enriched their downtowns as districts. The Jitters® building, is a large two-story brick building with a clock tower at the corner of Ramsey Street and San Gorgonio Avenue. This building is the most prominent example of this town-building tradition; however, other structures throughout the District are visible. Example of this include, the block of San Gorgonio Avenue between Hays and Williams Streets, which also includes newer structures built in the main street tradition.

### *Commuting Statistics:*

The majority of Banning residents work outside of the City, many commuting greater than 25 miles to get to work. Employment centers for Banning residents are mainly in San

Bernardino, Riverside, and Palm Springs. Only 1,440 people both live and work in Banning. Nearly 75% of employees in the city commute into Banning. The largest employers in Banning are the Banning Unified School District, the San Geronio Memorial Hospital, the Smith Correctional Facility and the Banning Justice Center.<sup>2</sup>

*Transit:*

The City of Banning's Short Range Transit Plan (2021) outlines Banning's Transit service including Banning Connect services. Transit routes 1, 5, and 6 travel through Downtown Banning connecting to services and retail. The plan mentions there are nine bus shelters with intent to add shelters to the bus locations that do not have one. There are 10 stops within the study area, four of which have shelters and benches, while the remaining six stops only have benches, leaving transit riders to be exposed to the sun.

**JUSTIFICATION:**

The Downtown Banning is formally defined as easterly of 8<sup>th</sup> Street, northerly of Livingston St./Interstate 10 Freeway, southerly of Williams St., and westerly of Hargrave St. (with certain boundary exceptions). The layout of the Downtown area provides multiple opportunities for high-density/multi-family housing, by offering parcels of land, outside the public right-of-way, which have the opportunity to be developed. Vacant, and underutilized parcels typically include access to infrastructure (e.g., water, sewer, electric, gas, telecom, etc.) which removes the barriers to entry that can add time and cost to residential projects.

*Vacant Lots:*

Vacant lots are located throughout the Downtown on almost every block, contributing to the sense of economic stagnation and reducing walkability in the area.

*City-Owned Opportunity Sites:*

The City controls many sites whose development it can incentivize through land write downs or other means, for catalytic development with potential public benefit elements (e.g. open space, affordable housing, public parking).

*Repurpose Potential (Good Quality Buildings):*

Some good-quality structures are partially or fully unoccupied and present opportunities to be leased for uses that bring economic activity to the Downtown. Examples include the commercial space in the historic 199 W Ramsey St mixed-use building, which fronts on an entry plaza and could be used for a restaurant or other public-facing use, and the vacant, recently renovated office building at 66 N 1st St.

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<sup>2</sup> City of Banning; Riverside County; Census on the Map; ESRI; RCLCO



### **ENVIRONMENTAL DETERMINATION:**

Planning Division staff find and determine that the proposed amendments to Title 17 (Zoning), as set forth in Exhibit B to this Resolution, is not subject to CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty there is no possibility these amendments may have a significant effect on the environment. Further projects subject to proposed amendments to Title 17 (Zoning) will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

### **FISCAL IMPACT:**

The costs associated with preparing the Ordinance Amendment is minimal. Future residential or mixed-use development will be paid for through the submittal of developer fees.

### **ALTERNATIVES:**

1. Direct staff to proceed with Draft Ordinance as recommended.
2. Direct staff to proceed with Draft Ordinance with modifications.
3. Provide alternative direction to staff.

### **ATTACHMENTS:**

1. Ordinance 1596 – Establishing a Downtown District Ordinance Amendment  
[https://banningca.gov/DocumentCenter/View/13387/01-Banning---Ordinance-1591\\_ZTA-23-97502](https://banningca.gov/DocumentCenter/View/13387/01-Banning---Ordinance-1591_ZTA-23-97502)
2. Planning Commission Resolution 2023-14  
<https://banningca.gov/DocumentCenter/View/13388/02-Banning---PC-Reso-2023-14-7-18-23-version>
3. Draft Complete Streets – Existing Conditions Report (dated November 9, 2022)  
<https://banningca.gov/DocumentCenter/View/13389/03-Draft-Complete-Streets---Ex-Conditions-Report-11-9-22>
4. Public Hearing Notice  
<https://banningca.gov/DocumentCenter/View/13385/04-Public-Hearing-Notice>

5. District Boundary

<https://banningca.gov/DocumentCenter/View/13386/05-District-Boundary>

6. Proof of Publication

<https://banningca.gov/DocumentCenter/View/13400/Att-6-Proof-of-Publication>

Approved by:

A handwritten signature in black ink, appearing to read "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Art Vela, Director of Public Works  
Patrick Safari, CIP Manager

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-153, Approving Amendment 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an Additional Amount of \$20,000 for the Design of the Ramsey Street and Omar Street Intersection Improvements and Extending the Term of Agreement to July 5, 2025

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### **RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution 2023-153:

1. Approving Amendment 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc. ("WEBB") for an additional amount of \$20,000 for the Design of the Ramsey Street and Omar Street Intersection Improvements and extend the term of the agreement to July 5, 2025.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations, and transfers related to Amendment 1 to the Professional Services Agreement with WEBB.
3. Authorizing the City Manager or his designee to execute Amendment No. 1 to the Professional Services Agreement with WEBB.

### **BACKGROUND:**

On October 12, 2021, under Resolution 2021-91, the City Council approved Master Agreement 08-5214S21 and a corresponding Program Supplement Agreement No. HSIPL-5214(013). The agreements authorize the City of Banning to start the Preliminary Engineering (PE) phase for the design of the Ramsey Street and Omar Street Intersection Improvements.

On June 14, 2022, under Resolution 2022-68, the City Council approved the Professional Services Agreement with WEBB for the design of the Ramsey Street and Omar Street Intersection Improvements in the amount of \$36,698. The design included the addition of



a left turn pocket to improve traffic safety for eastbound motorists heading north on Omar Street from Ramsey Street.

### **JUSTIFICATION:**

The current design does not address the existing drainage issues and driving conditions on the eastbound lanes on Ramsey Street and Omar Street intersection. The crown creates a large grade break between the Ramsey Street eastbound lanes and the left turn pocket onto Omar Street. The proposed revisions to the current design will eliminate the crown by raising the north end of the eastbound lanes of Ramsey Street to allow runoff to drain to the gutter at the south end of the eastbound lanes and provide smooth driving conditions for motorists turning left on Omar Street.

On June 20, 2023, City staff reached out to California Department of Transportation (Caltrans) to secure additional funding for the design alterations. On July 10, 2023, the City received a Finance Letter granting the City an additional \$18,000 to cover 90% of the change order cost. The City will be responsible for the 10% match in the amount of \$2,000 as outlined in the attached Finance Letter.

### **FISCAL IMPACT:**

The change order will be funded from Measure A Funds, Account 101-4900-431.93-16. 90% of the project costs are eligible and expected to be reimbursed by the State of California Department of Transportation Cycle 10 Highway Safety Improvement Program (HSIP).

The City of Banning will receive monthly reimbursements from the State of California.

### **ALTERNATIVES:**

Do not approve Resolution 2023-153 and provide alternative direction to staff.

### **ATTACHMENTS:**

1. Resolution 2023-153  
<https://banningca.gov/DocumentCenter/View/13341/Att-1-CC-Resolution-2023-153>
2. Resolution 2021-91  
<https://banningca.gov/DocumentCenter/View/13342/Att-2-CC-Resolution-No-2021-091>
3. Resolution 2022-68  
<https://banningca.gov/DocumentCenter/View/13338/Att-3-CC-Resolution-No-2022-068>
4. Caltrans Finance Letter  
<https://banningca.gov/DocumentCenter/View/13339/Att-4-Caltrans-Finance-Letter>
5. Webb Change Order  
<https://banningca.gov/DocumentCenter/View/13340/Att-5-Webb-Change-Order>



6. Amendment 1 to Professional Services Agreement

<https://banningca.gov/DocumentCenter/View/13368/Att-6-C00776-Amendment-No1-Albert-Webb---Ramsey-Omar-Intersection>

Approved by:

A handwritten signature in black ink, appearing to read "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Jim Steffens, Acting Electric Utility Director

**MEETING DATE:** September 12, 2023

**SUBJECT:** Discussion and Consideration of Resolution 2023-154,  
Approving the Electric Utility Power Source Disclosure Annual  
Report and Power Content Label for Calendar Year 2022

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### **RECOMMENDATION:**

Staff recommends the City Council adopt Resolution 2023-154:

1. Approving the City of Banning Electric Utility ("Utility") Power Source Disclosure Annual Report and Power Content Label for Calendar Year 2022, attached herewith as Exhibit "A" and Exhibit "B" to Attachment 1.
2. Authorize the Electric Utility Director, or his or her designee, to disseminate the information included on the Power Content Label to the Utility's customers in compliance with the requirements of Senate Bill 1305 and Assembly Bill 162.

### **BACKGROUND:**

On October 11, 2009 the Governor signed California State Assembly Bill 162 ("AB 162"), which amended the Power Content Label reporting requirements originally set forth in Senate Bill 1305. The amendments changed the reporting requirements from quarterly to annual, and require that utilities report actual power content information instead of projected.

The information must be provided to the utility's customers through either printed or electronic means, including posting it on the City's website. The Utility will provide it by posting an electronic copy of the Power Content Label on the City's website.

The California Energy Commission (CEC), which has oversight authority for this requirement, has stated that the governing body of each locally owned public utility must approve both the Power Source Disclosure Annual Report and the annual Power Content Label for the utility(s) under its jurisdiction. Therefore, Staff is requesting that the City Council approve Resolution 2023-154, accepting both the Utility's Power Source

Disclosure Annual Report, attached herewith as Exhibit “A” to attachment 1, and the Utility’s Power Content Label, attached herewith as Exhibit “B” to Attachment 1.

**JUSTIFICATION:**

AB 162 requires that all load serving electric utilities develop and provide to its customers on an annual basis an approved Power Content Label. The Power Content Label shows the percentages of each type of energy resources that are used to serve an electric utility’s customers. The regulation has been amended beginning in calendar year 2019, requiring the governing body of each locally owned public utility to approve both the Power Source Disclosure Annual Report and the Power Content Label.

**FISCAL IMPACT:**

None

**ALTERNATIVES:**

1. Approve the Power Source Disclosure Annual Report and the Power Content Label as recommended.
2. Do not approve the Utility’s Power Source Disclosure Annual Report and Power Content Label, which would put the Utility in violation of AB 162.

**ATTACHMENTS:**

1. Resolution 2023-154  
<https://banningca.gov/DocumentCenter/View/13319/Att-1-Resolution-2023-154>

Approved by:



Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

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

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-155, Awarding a Design-Build Agreement to EFS West for the Compressed Natural Gas Fueling Station in the Amount of \$3,543,013 and Approving a 10% Contingency for a Total Project Budget of \$3,897,314 and Approving Amendment 3 with STV Incorporated for Support Services in the Amount of \$109,000

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### **RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution 2023-155:

1. Approving a Design-Build Agreement for the Compressed Natural Gas (CNG) Fueling Station to EFS West of Valencia, California in the amount of \$3,543,013 and approving a 10% contingency in the amount of \$354,301 for a total project budget of \$3,897,314 and rejecting all other bids.
2. Approving Amendment 3 with STV Incorporated for Support Services in the Amount of \$109,000.
3. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Design-Build Agreement for the CNG Fueling Station and to approve change orders within the 10% contingency.
4. Authorize the City Manager to execute the Design-Build Agreement with EFS West of Valencia, California for CNG Fueling Station and Amendment 3 to the Professional Services Agreement with STV Incorporated.

### **BACKGROUND:**

The City owns and operates a CNG fueling facility located at the Corporate Yard (176 E. Lincoln Street). The facility was commissioned in 2004 and serves the City's fleet (i.e. transit buses and dump truck) and the Banning Unified School District (BUSD) bus fleet.

The BUSD has dedicated slow fill supply lines and dispensers from the City's CNG fueling facility to their property located adjacent and to the east of the City's Corporate Yard. The dedicated supply lines and dispensers allow the BUSD bus fleet to refill overnight.

At the time of commissioning the CNG facility was available 24 hours a day, 7 days per week to the general public and to other agencies such as, Morongo Band of Mission Indians, Caltrans, County of Riverside and Waste Management. The public access has been closed for over a year due to complications with the CNG fueling station.

The existing CNG fueling facility is several years beyond it's useful life, is constantly under repair and parts are becoming increasingly difficult to purchase. If the facility were to go down the City's CNG fleet would have to travel to either Redlands, Moreno Valley or Palm Springs to refuel.

Additionally, the Public Works Department Transit Division recently completed a zero-emission bus (ZEB) transition study to create a plan for a 100% zero-emission fleet by 2040 as required by the Innovative Clean Transit (ICT) regulation enacted by the California Air Resources Board (CARB). The ZEB transition study indicates that the City will continue to have CNG vehicles until 2039, see page 26 of the attached ZEB Rollout Plan.

The City of Banning entered into a Professional Services Agreement with STV Incorporated (STV) on June 25, 2021. STV's scope of work was to update an existing set of bridging documents (30% design) for a design-build solicitation to construct a new CNG fueling station. STV's engineer was the engineer of record for the original set of bridging documents developed in 2019. Staff is also recommending approval of Amendment 3 to retain STV services during the remaining design phase and the construction phase.

The City finalized the bridging documents and released an Request for Proposals (RFP-23-034) on June 5, 2023. A mandatory pre-proposal meeting was held on June 15, 2023 to go over the scope of work, deadlines and to answer any questions from prospective bidders. As a result of the Request for Proposals, the City received two proposals. An evaluation committee was assembled to score each proposal based on qualifications of the primary team member and team, statement of understanding, responsiveness, and price proposal. The resulting evaluation scores are as follows:

| <b><u>Contractor</u></b> | <b><u>Score (out of 100)</u></b> |
|--------------------------|----------------------------------|
| EFS West, Inc.           | 87.5                             |
| Opal Fuels               | 74.0                             |

As a result, staff recommends that the Design-Build Agreement be awarded to EFS West, Inc. of Valencia, California, in the amount of \$3,543,013.

If awarded, staff anticipates the work to commence in October, 2023 and to be completed in December, 2024.

The scope of work includes the completion of the project design, engineering, permits, grading, construction, material, labor, testing, verification, procurement, commissioning, and installation of all equipment.

Design components for the CNG fueling station include single tower dryer with manually activated regeneration, CNG compressor, coalescing filter assembly, priority/sequential control valve panel, 3-bank cascade storage, fast-fill dispenser, fuel management system, time-fill posts, time-fill meters for City and BUSD daily fuel dispensing, defueling panel, compressed air system, and station master control system. Design shall include demolition and construction of new perimeter wall, grading and paving to accommodate the new public dispensers.

### **JUSTIFICATION:**

As noted in the ZEB Transition Study, the City will continue to have CNG vehicles as part of the City's transit fleet for the next 16 years. The existing fueling facility is several years beyond its useful life and in need of replacement.

The results of a RFP indicate that EFS West, Incorporated is the highest ranked firm to complete the design and construct the City's new CNG fueling facility.

Support services are needed from STV Incorporated during the design phase of the project. STV will, as the engineer of record, will act as the project manager, review submittals (e.g. design, equipment, construction), respond to Request for Information (RFIs), attend progress meetings, provide onsite construction observations, develop deficiency list (punchlist), review test results and assist in the project closeout.

### **FISCAL IMPACT:**

The recommended Design-Build Agreement with EFS West, Inc. is for an amount of \$3,543,013. Staff requests a 10% contingency in the amount of \$354,301 for any unforeseen conditions or circumstances. The total construction project budget, including the Construction Agreement and contingency, is for an amount of \$3,897,314.

Amendment 3 with STV Incorporated is for an amount of not-to-exceed \$109,000.

The total project budget (construction and support services) is \$4,006,314.

The current adopted budget for Fiscal Year 2023/2024 includes a budgeted amount of \$4,200,000 in Account No. 610-5800-434.90-56. The project is fully funded by State Transit Assistance (STA) funds as programmed in the City's approved Short Range Transit Plan (SRTP). There is a total of \$4,050,000 currently programmed for the CNG fueling station project via the SRTP.

As part of the RFP, the City included three (3) additive bid alternate items. EFS West, Inc. bid on the three items as follows:

| <b><u>Additive Bid Alternate</u></b> | <b><u>Price</u></b> |
|--------------------------------------|---------------------|
| 1. Second CNG Compressor             | \$895,000           |
| 2. Standby Diesel Generator          | \$260,549           |
| 3. Second Fuel Island                | \$278,361           |

The additive bid alternate items are listed in order of priority.

At this time the City does not have the funding to add any of the additive bid alternate items. During the development of the next year's SRTP, staff will request additional STA funding for the additional items and if granted, staff will request City Council's authority to add the additional bid items.

Lastly, the new CNG fueling facility will be an asset assigned to the Transit Division. Revenues generated by fuel sales to BUSD and the public will be allocated to the Transit Division and used to meet the City's farebox recovery match of ten percent (10%), which is estimated at \$200,000 for fiscal year 2024. At times it is necessary to transfer General Funds to the Transit Division in order to meet its farebox recovery match. The CNG fueling facility revenues will reduce the need for said transfers from the General Fund.

#### **ALTERNATIVES:**

1. Adopt Resolution 2023-155 as recommended.
2. Adopt Resolution 2023-155 with modifications.
3. Do not approve Resolution 2023-155 and provide alternative direction to staff.

#### **ATTACHMENTS:**

1. Resolution 2023-155  
<https://banningca.gov/DocumentCenter/View/13355/Attach-1-Reso-2023-155>
2. RFQ CNG Station  
[https://banningca.gov/DocumentCenter/View/13356/Attach-2-RFQ-22-028\\_Design-Build\\_CNG\\_Fueling\\_Station\\_Project\\_32323-4](https://banningca.gov/DocumentCenter/View/13356/Attach-2-RFQ-22-028_Design-Build_CNG_Fueling_Station_Project_32323-4)
3. EFS Proposal  
<https://banningca.gov/DocumentCenter/View/13357/Attach-3-EFS-Proposal>
4. STV Fee Proposal  
<https://banningca.gov/DocumentCenter/View/13352/Attach-4-STV-Fee-Proposal-Banning-CNG-Station-2023-08-25>
5. ICT Rollout Plan  
<https://banningca.gov/DocumentCenter/View/13353/Attach-5-City-of-Banning-Final-ICT-Rollout-Plan>
6. EFS Draft Agreement  
<https://banningca.gov/DocumentCenter/View/13354/Attach-6-DRAFT-EFS-CNG-Facility-Design-Build-Agreement>

7. STV Draft Agreement

<https://banningca.gov/DocumentCenter/View/13377/Attach-7-C00714-STV-INCORPORATED-AMENDMENT-3>

Approved by:

A handwritten signature in black ink, reading "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager





## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** James Steffens, Acting Electric Utility Director  
Brandon Robinson, Electrical Engineering Supervisor

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-157, Approval of the Emergency Purchase of Two (2) 34.5kV Potential Transformers from City of Pasadena Water & Power of Pasadena, CA and Substation Testing Services from Electric Power Systems International, Inc. of Santa Ana, CA in the Amount of \$26,986.60

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### **RECOMMENDATION:**

Staff recommends City Council approve the emergency purchase of two (2) 34.5kV potential transformers from City of Pasadena Water & Power and substation testing services from Electric Power Systems International, Inc. under the City of Banning's emergency procurement policies.

### **BACKGROUND:**

The 22<sup>nd</sup> St. Substation provides utility distribution to a vital portion of City of Banning Electric Utility's (BEU) commercial and residential customers, which includes the corridor on Ramsey St. between Sunset Ave. and 8<sup>th</sup> St. known as "Hamburger Row". On July 4, 2023, BEU experienced a large outage on the distribution system due to the failure of a 34.5kV potential transformer at 22<sup>nd</sup> St. Substation. BEU's standby-by personnel responded immediately, isolated the 22<sup>nd</sup> St. Substation and shifted energy distribution to its customers from another substation near the affected area, and patrolled the distribution system to ensure that there were no other issues to address as a result of the initial outage.

Following this event, staff reached out to other public utilities through the existing Mutual Assistance protocol that is recognized by Southern California Public Power Authority (SCPPA), American Public Power Association (APPA), and California Utilities Emergency Association (CUEA). City of Pasadena Water & Power responded to the request and were able to assist with equipment that matched the specifications of the failed potential transformer at 22<sup>nd</sup> St. Substation. BEU field staff were able to retrieve the items from Pasadena on July 6, 2023. Prior to installing the new equipment to replace the failed

equipment, BEU utilized system testing services from an existing contractor, Electric Power Systems International (EPS), that was readily available due to currently working on a project for the BEU in Banning. EPS was able to test the 34.5kV system at 22nd St. Substation using specialized testing methods and procedures on July 7, 2023, to confirm the ability to place the substation back into service.

### **JUSTIFICATION:**

The City's procurement policies and procedures allows for immediate purchases (Section 13 – Emergency Purchases) to prevent economic or other hardship to the City. In this case, the immediate replacement of the 34.5kV potential transformer at 22<sup>nd</sup> St. Substation was needed to relieve stress from other impacted substations that absorbed the load from the outage at 22<sup>nd</sup> St. for restoration of power. Energy demand is at or near system peak for BEU during the month of July, therefore remediation of the failed potential transformer and restoration of the 22nd St. Substation would need to be completed immediately. BEU opted to purchase two potential transformers so that one could serve as a backup in case other issues arose.

### **FISCAL IMPACT:**

The purchase of the two potential transformers for \$25,626.60 and substation testing services in the amount of \$1,360.00 will be funded by funds in the current budget and from Electric Account 670-7000-473.45-05 in the amount of \$26,986.60.

| <b><u>Year</u></b> | <b><u>Estimated Amount</u></b> |
|--------------------|--------------------------------|
| 2023/2024          | \$26,986.60                    |

### **ALTERNATIVES:**

1. Adopt Resolution 2023-157 as recommended.
2. Adopt Resolution 2023-157 with modifications.
3. Do not approve Resolution 2023-157 and provide alternative direction to staff.

### **ATTACHMENTS:**

1. Resolution 2023-157  
[https://banningca.gov/DocumentCenter/View/13360/Att-1-Reso-2023-157\\_Emergency-Purchase-of-345kV-PTs](https://banningca.gov/DocumentCenter/View/13360/Att-1-Reso-2023-157_Emergency-Purchase-of-345kV-PTs)
2. Sole Source/Emergency Purchase Justification with Supporting Documents  
[https://banningca.gov/DocumentCenter/View/13358/Att-2-SS-Form\\_22nd-St-PT-Emergency-Pasadena-EPS-purchase](https://banningca.gov/DocumentCenter/View/13358/Att-2-SS-Form_22nd-St-PT-Emergency-Pasadena-EPS-purchase)
3. Pages from Policy B-30 Section 13  
<https://banningca.gov/DocumentCenter/View/13359/Att-3-Pages-from-B-30-Section-13-Emergency-Purchases>

Approved by:

A handwritten signature in black ink, appearing to read "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Lincoln Bogard, Administrative Services Director  
Jim Steffens, Acting Electric Utility Director  
Barbara Mason, Purchasing Manager  
Amber Rockwell, CORE Manager

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-158, Ratifying Previous Task Orders and Approving the Continued Use of Professional Service Agreements For Energy Efficiency Programs Through The Southern California Public Power Authority (SCPPA)

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### **RECOMMENDATION:**

The City Council adopt Resolution 2023-158:

1. Ratify prior task orders and Master Service Agreements that were executed by the Electric Utility Director, approve the continued use task orders identified, ratify the energy efficiency program professional service agreements through Southern California Public Power Authority (SCPPA), and authorize the City Manager or his designee to execute all agreements for the following:
  - **Synergy Companies – Total Not-To-Exceed: \$200,000**
    - Ratify prior task order for Commercial and Residential Direct Install Programs dated May 25, 2022, through October 15, 2023, totaling \$150,000
    - Requesting approval of task order not yet executed for additional \$50,000 dated May 23, 2023, with the same ending date.
  - **The Arbor Day Foundation – Total Not-To-Exceed: \$25,000**
    - Requesting approval of task order for Energy Saving Trees online tree program not yet executed, dated June 29, 2023, through October 18, 2025 for \$25,000.
  - **Efficiency Services Group, LLC. (“ESG”) – Total Not-To-Exceed: \$85,780**
    - Ratify prior task order for Program Support Services dated January 25, 2023, through July 19, 2024, totaling \$85,780.

- **Richard, Heath & Associates, Inc. (“RHA”) – Total Not-To-Exceed: >\$329,000**
    - Ratify prior task orders for dated
      - (1) August 28, 2018, for FY 2018-19 for \$100,000 for Small Business Energy Audits and Energy Efficiency Implementation Programs;
      - (2) April 18, 2018, for a term and total of “as-needed basis” for Solar Photovoltaic and Power Quality Assessments;
      - (3) July 10, 2019, for FY 2019-20 for \$100,000 for Small Business Energy Audits and Energy Efficiency Implementation Programs;
      - (4) July 11, 2019, for FY 2019-20 with no not-to-exceed amount identified for Solar Photovoltaic and Power Quality Assessments; and
      - (5) June 29, 2022, for July 1, 2020 through July 1, 2024 for \$129,000 for Solar Photovoltaic and Power Quality Assessments.
  - **Lincus, Inc. – Total Not-To-Exceed: \$16,639**
    - Ratify prior task orders for Greenhouse Gas Verification Services, dated
      - (1) February 20, 2018, through August 3, 2018, for \$4,953;
      - (2) March 7, 2019, through August 2, 2019, for \$5,758;
      - (3) March 2, 2020, through May 26, 2020, for \$5,928;
      - (4) February 17, 2022 for calendar years 2021 and 2022 for \$11,078.
  - **Dudek – Total Not-To-Exceed: \$12,000**
    - Ratify prior task order for Wildfire Mitigation Plan Independent Evaluation Services dated May 5, 2020, with no set ending date for \$12,000.
  - **Pandora Consulting Associates, LLC – Total Not-To-Exceed: \$3,750**
    - Requesting approval of task order not yet executed for 2022 SR3 Benchmarking Data Study & 2023 SR3 Report with term ending July 16, 2026, for \$3,750.
  - **Grand Total Not-To-Exceed Amount of at least \$683,247**
    - Two task orders above did not specify not-to-exceed amounts.
2. Ratify all prior payments made to SCPPA, which circumvented purchasing controls by SCPPA billing indirectly via the Riverside Public Utility (RPU) monthly invoicing process.

### **BACKGROUND:**

SCPPA is a Joint Powers Authority, formed in 1980 under the Joint Exercise of Powers Act of the California Legislature. The City of Banning Electric Utility is one of eleven municipal utilities and one irrigation district that make up the members of SCPPA. Over the years, SCPPA’s role has evolved from generation and transmission acquisition, to include legislative advocacy and cooperative efforts to reduce member costs and improve efficiency.

As a SCPPA member, the City of Banning Electric Utility has the benefit of participating in Professional Services and Goods Agreements that SCPPA executes at the request of, and on the behalf of, its members. The Electric Department participates in SCPPA's Public Benefit Committee where activities include the preparation of a State required annual report, which details the use of Public Benefit Funds, and the exchange of information regarding energy efficiency (EE), renewable energy, research and development programs, and low-income services.

In addition to many mandated electric utility reporting and regulatory requirements, California Assembly Bill 723 requires municipal electric utilities to collect revenues for the following Public Benefit Programs:

- (1) Cost-effective demand-side management services to promote energy efficiency and energy conservation.
- (2) New investments in renewable energy resources and technologies consistent with existing statutes and regulations which promote those resources and technologies.
- (3) Research, development and demonstration programs for the public interest to advance science or technology which is not adequately provided by competitive and regulated markets.
- (4) Services provided for low-income electricity customers, including but not limited to, targeted energy efficiency services and rate discounts

Synergy Companies currently administers energy savings programs for hospitality, small business audits with direct installations, residential audits with direct installation, and municipal department (EE) updates.

Energy Saving Tree Program by the Arbor Day Foundation provides 200 trees for residents to reserve online with an online GIS mapping tool for the greatest cost savings for shading their property. Residents at the City's annual Arbor Day Event pick up their reserved trees.

Efficiency Services Group, LLC ("ESG") provides a Scope of Work for the purpose of providing Public Benefit (PB) energy efficiency (EE) program review and administrative support services including, but not limited to SB1037 Reporting support, rebate review and processing and large-appliance rebate audits.

Richard Heath and Associates, Inc. ("RHA") provides power quality and solar photovoltaic assessments to assess the viability of installing solar photovoltaic systems on City owned facilities or City electric customers including, but not limited to the following: roof-mounted systems, ground mounted systems, and parking structures. Lincus, Inc. is comprised of a verification team which follows a well-defined and tested approach to independently verify that the submitted emissions data reports are free of material misstatements, and in full conformance with the regulation requirements.

Dudek provides review and assessment of the comprehensiveness of the City of Banning Electric Utility's Wildfire Mitigation Plan ("WMP"), with specific focus on whether the plan adequately addresses required WMP elements (identified in California Public Utilities Code Section 8387(b)(2)).

Pandora provides professional and technical consulting services related to reliability and outage restoration benchmarking surveys, studies, and reports for System Reliability, Restoration, and Response (SR3). Pandora's services are expected to provide the City of Banning Electric Utility with an increased ability to analyze and verify the effectiveness and reliability of their electric system to determine the projects and programs needed for improved resiliency.

### **JUSTIFICATION:**

Electric Department staff submitted a request for the Synergy task order amendment to bring to Council on June 27, 2023. As a part of the Purchasing Division review process, we determined that we had no record of the original task order, and we could not find evidence that the vendor existed in our financial systems. Electric staff pushed the item prior to submitting for the July 27, 2023, meeting to add the other approvals identified in this staff report. Finance and Electric staff worked with SCPPA to identify all task orders initiated in the last five years and added all those past ratifications to this report as well. Purchasing also identified a task order with SCPPA to engage Black and Veatch that was approved by Council on February 12, 2019, with Resolution 2019-17 for a resource study with a not-to-exceed of \$50,000. That was the only SCPPA task order brought to Council since January 2018.

Finance staff researched the issue and discussed the missing vendor information with Electric Staff and SCPPA. Staff identified that all payments on task orders executed by the Electric Director to SCPPA are billed through RPU and are included in the City's monthly power purchases invoices.

Finance staff requested all task orders, Master Service Agreements (MSA), Request-For-Qualifications, and Vendor scoring and evaluation criteria. Staff received the historically "executed" listing of MSAs and task orders, but evaluation criteria and vendor scoring matrix was not provided. Purchasing Policy requires that those meet our minimum requirements (Policy B-30 Section 12). Short of analyzing all RPU invoices in detail, staff has no way to verify that a comprehensive response was received from SCPPA.

Between all the justification above, SCPPA purchases were able to bypass procurement and finance internal controls and city policies and procedures.

### **FISCAL IMPACT:**

Funds for program expenditures have been paid through the RPU invoicing process and future invoices are to be paid from the following accounts:

- 675-7020-473.42-58
- 675-7020-473.33-11
- 675-7020-473.33-25
- 675-7020-473.42-54

- 675-7020-473.42-57
- 675-7020-473.42-58
- 670-7010-473.27-50
- 673-7000-473.96-42
- 670-7000-473.33-11

Finance will coordinate with Electric Staff to ensure that SCPA begins billing the City directly and that the City Manager execute all future agreements and task orders, with the approval of Council when exceeding City Manager signing authority. Those corrections will fix the internal control weaknesses identified above.

The total ratification and approval requested is at least \$683,247. Further research is required to identify the amounts expended on the two task orders with RHA that do not include not-to-exceed amounts.

**ALTERNATIVES:**

1. Adopt Resolution 2023-158 as recommended.
2. Adopt Resolution 2023-158 with modifications.
3. Do not approve Resolution 2023-158 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-158  
[https://banningca.gov/DocumentCenter/View/13361/2023-158\\_Att-1\\_SCPA-Resolution](https://banningca.gov/DocumentCenter/View/13361/2023-158_Att-1_SCPA-Resolution)
2. City Council Staff Report – Black and Veatch – February 12, 2019  
[https://banningca.gov/DocumentCenter/View/13362/2023-158\\_SR-Att2\\_SR-2-12-19-Task-Order-Black-and-Veatch---Reso-2019-17](https://banningca.gov/DocumentCenter/View/13362/2023-158_SR-Att2_SR-2-12-19-Task-Order-Black-and-Veatch---Reso-2019-17)
3. Resolution 2019-17  
[https://banningca.gov/DocumentCenter/View/13363/2023-158\\_SR-Att3\\_CC-Resolution-No-2019-017---Black--Veatch-50k](https://banningca.gov/DocumentCenter/View/13363/2023-158_SR-Att3_CC-Resolution-No-2019-017---Black--Veatch-50k)

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  
A'ja Wallace, Deputy Finance Director

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-159, Approving a Revision to Classification and Compensation Plan

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### **RECOMMENDATION:**

Staff recommends City Council adopt Resolution 2023-159 Amendment to the Classification and Compensation Plan effective September 18, 2023.

### **BACKGROUND:**

It is necessary to amend the City's classification and compensation plan from time to time to maintain a current plan which reflects the budget amendments, organizational structure, and department needs.

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

### **JUSTIFICATION:**

Proposed changes to the Classification and Compensation plan include:

#### **POLICE DEPARTMENT**

***Update Executive Assistant – Support Services Manager (Job Code 2041) Range from T70 to Range T85***

Update the current position range to market wage.

**FISCAL IMPACT:**

| Proposed Base Wage Increase                             |                      |                       |                            |         |  |       |
|---|----------------------|-----------------------|----------------------------|---------|--|-------|
| Position/Fund/Range                                     | Current Salary Range | Proposed Salary Range | Proposed Salary Difference |         |  |       |
| Executive Assistant - Support Services Manager /001/T85 | \$101,831            | \$109,012             |                            | \$7,181 |  | 7.05% |
|   |                      |                       |                            |         |  |       |
| TOTAL GENERAL FUND IMPACT                               |                      |                       |                            | \$7,181 |  |       |

**ALTERNATIVES:**

1. Adopt Resolution 2023-159 as recommended.
2. Adopt Resolution 2023-159 with modifications.
3. Do not approve Resolution 2023-159 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-159  
<https://banningca.gov/DocumentCenter/View/13364/Attachment-1--Resolution-2023-159-Amendment-to-Classification-and-Compensation-Plan>
2. Current Teamsters Salary Schedule  
<https://banningca.gov/DocumentCenter/View/13365/Attachment-2--Teamsters-Salary-Schedule>

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  
Eric Brown, IT Manager

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-160, Approving a Budget Allocation and Approval to Update the City Computer Network Infrastructure

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### **RECOMMENDATION:**

Staff recommend City Council adopt Resolution 2023-160 authorizing budget allocation and approving the City Manager to enter into a 3-Year agreement for Vigilant Managed Endpoint Detection and Response (MEDR), including year-round, 24 hour, 7 days per week (24/7/365) Cybersecurity monitoring and response services for a total 3-Year Not-To-Exceed amount of \$309,702.

### **BACKGROUND:**

Cybersecurity is more important than ever for businesses. With sensitive customer data, financial information, and the City's Intellectual property stored online, government agencies are prime targets for cyberattacks. The protection of the organization's digital assets is of utmost importance and the City can no longer solely rely on out-of-the-box cybersecurity solutions like antivirus software and firewalls. Cybercriminals are getting smarter, and their tactics are becoming more resilient to conventional cyber defenses. It is important to cover all areas of cybersecurity to stay well-protected. In today's computing environment, using a proactive approach is the best method to mitigating cyber-attacks by helping protect, the people, processes, and technology in the computing environment. A monitoring and response service is vital to improving City staff's ability to detect unusual computing activity, allowing for better response to threats in a timely manner, minimizing the costs and reputation damage that can occur from cyber-attacks.

### **JUSTIFICATION:**

Cybersecurity is vital to provide confidentiality, integrity, and availability of the City's information systems. This includes sensitive data, personally identifiable information (PII), personal information, intellectual property, data, and governmental industry information

systems. Without a cybersecurity program, the City cannot adequately defend itself against data breach campaigns, which make the City an irresistible target for cybercriminals. Benefits of Cybersecurity monitoring and response include but are not limited to:

- Minimizing data breaches
- Improving response time to attacks
- Protecting personal data
- Addressing security vulnerabilities
- Compliance with standards and regulations
- Reducing Downtime
- Preserving reputation
- Better data management
- Improving cybersecurity posture
- Provides onsite virtual monitoring and response to attacks
- Unlimited breach response
- Unique shared risk model

**FISCAL IMPACT:**

|                          |                                     |
|--------------------------|-------------------------------------|
| Total Cost Year 1        | \$112,902 (Includes implementation) |
| Total Cost Year 2        | \$98,400                            |
| Total Cost Year 3        | \$98,400                            |
| <b>Total 3-Year Cost</b> | <b>\$309,702</b>                    |

The contract will be funded from General Ledger Account Number 703-3700-480.33-11. The current contract for cybersecurity endpoint protection services only (Cortex XDR Prevent) has an annual cost of \$24,480. This service will be required to continue if this item is not approved.

**ALTERNATIVES:**

1. Approve Resolution 2023-160 as recommended.
2. Approve Resolution 2023-160 with modifications.
3. Do not approve Resolution 2023-160 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-160  
<https://banningca.gov/DocumentCenter/View/13366/Attachment-1--Resolution-2023-160-Agreement-with-Vigilant-Managed-Endpoint-Detection-and-Response-MEDR>

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:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-161, Approving Amendment No. 6 to the Professional Services Agreement with Engineering Resources of Southern California (ERSC) to Increase the Total Compensation by \$128,052.19 for Plan Check, Inspections and Related Administrative Services

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### **RECOMMENDATION:**

The City Council adopt Resolution 2023-161 approving the following actions:

1. Approving Amendment No. 6 to the Professional Services Agreement with Engineering Resources of Southern California (ERSC) for an additional \$128,052.19 for plan check, inspections and related administrative services and closeout the contract.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement Amendment No. 6 with ERSC.
3. Authorizing the City Manager to execute Amendment No. 6 with ERSC.

### **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 (e.g. plan checking, inspections, etc.) private land development projects.

Due to staff resources and the current work load related to land development projects such as the Atwell Development, the City Council adopted Resolution No. 2019-05 on January 8, 2019 awarding a professional services agreement to ERSC for plan checks, inspections and related administrative services in the amount of \$250,000 on an as needed basis; and on January 14, 2020, the City Council adopted Resolution No. 2020-05, approving Amendment No. 1 to increase the contract amount by \$350,000; and on

May 12, 2020, the City Council adopted Resolution 2020-58, approving Amendment No. 2 to increase the contract amount by \$750,000 and to extend the term of the agreement through June 30, 2021; and on May 11, 2021, the City Council adopted Resolution 2021-37, approving Amendment No. 3 to increase the contract amount by \$850,000 and to extend the term of the agreement through June 30, 2022; and on March 8, 2022, the City Council adopted Resolution 2022-20, approving Amendment No. 4 to increase the contract amount by \$1,000,000 and to extend the term of the agreement through June 30, 2023; and on December 13, 2022, the City Council adopted Resolution 2022-162, approving Amendment No. 5 to increase the contract amount by \$600,000 due to the increase in workload associated with the improvements for water and wastewater infrastructure.

As approved by Council, the term of the agreement with ERSC expired on June 30, 2023. The final invoice for the services performed by ERSC for the last month per the agreement (June 2023) exceeds the total amount of the contract and has therefore not been paid. For this reason staff is recommending that the City Council approve Amendment No. 6 to increase the contract amount by \$128,052.19 in order to pay the final invoice due to ERSC.

**JUSTIFICATION:**

ERSC has done an excellent job providing the required services (e.g. plan checks, review of technical studies and construction inspections) to meet the demands of Tri Pointe's (formerly Pardee Homes) Atwell development. The increase is due to the additional demands for inspection of off-site improvements constructed by Atwell development. If approved, Amendment No. 6 will pay for the final invoice due to ERSC and allow City staff to close out the contract for the plan check and inspection services.

**FISCAL IMPACT:**

An appropriation from the General Fund in the amount of \$128,052.19 to Account No. 001-3000-442.33-53 is necessary and will be directly offset by revenues collected from plan check and inspection fees collected by the Public Works Department. Funds exhausted to date have been 100% recovered by said fees, which are collected prior to providing ERSC the approval to proceed with work.

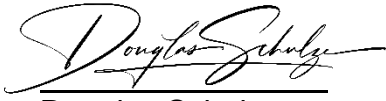
**ALTERNATIVES:**

Do not approve Resolution 2023-161 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-161  
<https://banningca.gov/DocumentCenter/View/13367/Attachment-1---Resolution-2023-161>
2. Amendment No. 6 to PSA with ERSC  
<https://banningca.gov/DocumentCenter/View/13372/Attachment-2-C00472-ERSC-AMENDMENT-6>

Approved by:

A handwritten signature in black ink, reading "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Lincoln Bogard, Administrative Services Director  
Barbara Mason, Purchasing Manager

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-162, Consolidated Approval  
of Software-as-a-Service Products Utilized Citywide

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### **RECOMMENDATION:**

Adopt Resolution 2023-162 approving the consolidated annual Software as a Service Agreements used City-Wide for the additional not-to-exceed amount of \$454,034.

### **BACKGROUND:**

The City of Banning utilizes software to conduct operations, maintain records, reporting, compliance, transparency, implementation and comply with Federal, State and Local requirements and regulations. The software programs assist in many facets of the City from Utility billing and financial reporting to project management to Parks & Recreation events. The use of these software programs streamlines productivity, provides open communication and transparency of information to name a few benefits.

Recent changes in the Government Accounting Standards Board (GASB) requires reporting on software agreements that include Subscription-Based Information Technology Arrangements (SBITAs). This new standard, GASB 96, establishes uniform accounting and financial reporting requirements for SBITAS for the purpose of improves the comparability of government's financial statements, and enhancing the understandability, reliability, relevance, and consistency of information.

Additionally, the future implementation of the new financial ERP software will track these agreements and assist in the reporting of GASB 96 as well as management of these SaaS agreements.

As part of these endeavors, Staff have created a list of software (Exhibit "A") and would like to streamline the approval of the SaaS agreements and increase transparency. The software total is \$1,472,173 which includes software previously approved by City Council in the amount of \$1,018,139 for various multi-year SaaS agreements.



**JUSTIFICATION:**

The varied software applications and platforms are necessary tools utilized by Staff for continued operations across all departments. The software provides informational data and reporting enabling Staff and Council to manage the City of Banning. By submitting the annual listing of the software, this will streamline the timely presentation for approval to the City Council in one cohesive effort.

**FISCAL IMPACT:**

Staff budgets for the software for their prospective department which is approved annually by City Council. Any software purchases not within budget would be presented to City Council for approval.

**ALTERNATIVES:**

1. Adopt Resolution 2023-162 as recommended.
2. Adopt Resolution 2023-162 with modifications.
3. Do not approve Resolution 2023-162 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-162  
<https://banningca.gov/DocumentCenter/View/13390/Att-1-CC-RESOLUTION-2023-162-SAAS>

Approved by:

A handwritten signature in black ink, appearing to read "Douglas Schulze", written over a horizontal line.

Douglas Schulze  
City Manager



## **CITY OF BANNING STAFF REPORT**

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Lincoln Bogard, Administrative Services Director  
Barbara Mason, Purchasing Manager

**MEETING DATE:** September 12, 2023

**SUBJECT:** Consideration of Resolution 2023-131, Amending Policy No. B-30 (Procurement Policies & Procedures), and Introduction and First Reading of Ordinance 1591, Amending Chapter 3.24 (Purchasing System) of Title 3 (Revenue and Finance) of the Banning Municipal Code, Concerning the City Manager's Aggregate Monetary Threshold Authorizations for Approval of Certain Contracts

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### **RECOMMENDATION:**

Staff recommends that the City Council pull this item until any City Council Member adds this back onto Future Agenda Items.

### **BACKGROUND:**

Certain provisions within Banning Municipal Code Chapter 3.24 (Purchasing System) governs the City Manager's authority to award and sign contracts without the City Council's prior approval. Those provisions effectively limit the City Manager's award authority to contracts valued at \$25,000 or less. Contracts for the purchase of supplies, equipment, and services, and contracts for professional services, that exceed \$25,000 in the aggregate value must be approved by the City Council.

Staff is proposing the increase the City Manager's contract award and approval authority to the proposed thresholds set forth in Attachment 4. Staff has targeted the average authority levels provided to City Managers throughout the State as identified in a recent California Association of Public Purchasing Officers (CAPPO) survey. The one deviation from that authority is to provide California Uniform Public Construction Cost Accounting Act (CUPCCAA) level authority for public projects (\$200,000). Many other cities, including Beaumont and Palm Springs have given that level of authority.

**JUSTIFICATION:**

It is imperative to periodically revisit the contract award and signing authority of the City Manager to accommodate and improve efficiencies in the procurement process. The last update to the Municipal Code regarding the City Manager's contract award and approval threshold was dated 1965. The authority levels have since been confirmed several times. To explicitly delineate these responsibilities, the proposed Resolution and Ordinance 1591 are being offered to clearly set forth when the City Manager may award and sign certain contracts on behalf of the City, without the City Council's prior approval. In today's dollars, \$25,000 in 1965 dollars is \$241,370. The existing thresholds are extremely low when compared to 1965 values and regional municipalities. Attachment 4 identifies City Manager signing authority levels that are more representative of California cities today.

**FISCAL IMPACT:**

No fiscal Impact.

**ALTERNATIVES:**

1. Pull this item until any City Councilmember adds this back onto Future Agenda Items.
2. Adopt Resolution 2023-131, and Waive Full Reading and Introduce Ordinance 1591, as recommended.
3. Adopt Resolution 2023-131, and Waive Full Reading and Introduce Ordinance 1591, with modifications.
4. Do not adopt Resolution 2023-131 or Introduce Ordinance 1591 and provide alternative direction to staff.

**ATTACHMENTS:**

1. Resolution 2023-131  
<https://banningca.gov/DocumentCenter/View/13382/Attachment-1-Resolution-23-131-City-Manager-Signing-Authority>
2. Proposed Amended Policy B-30  
<https://banningca.gov/DocumentCenter/View/13383/Attachment-2-Procurement-Administrative-Policies-003>
3. Ordinance 1591  
<https://banningca.gov/DocumentCenter/View/13384/Attachment-3-Ordinance-No-1591---Revised-6-21-23>
4. Proposed City Manager Authorization (with CAPPO Survey comparison analysis)  
<https://banningca.gov/DocumentCenter/View/13381/Attachment-4-Proposed-City-Manager-Authorization-with-CAPPO-Survey-comparison-analysis>

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:** September 12, 2023

**SUBJECT:** Phase 2 of Forensic Investigation into the Electric Enterprise

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### **RECOMMENDATION:**

Approve by Minute Order the payment to GHJ Advisors an additional \$75,000 for Phase 2 Forensic Investigation services into the Electric Enterprise for a total not-to-exceed amount of \$100,000 and authorize staff to proceed with a Request for Proposals (RFP) or a Request for Qualifications (RFQ) for Citywide Forensic Investigation Services.

### **BACKGROUND:**

The Administrative Services Director requested a forensic audit of the Electric Enterprise beginning in May 2023 and received approval from the City Manager in July 2023. The City Attorney's office has engaged a forensic auditor, GHJ Advisors, to conduct Phase 1 forensic auditing services. Phase 1 forensic auditing services include the performance of forensic accounting and investigative procedures to identify (1) areas of concern and (2) funds, accounts, and/or transactions for testing. The Phase 1 forensic auditing services should assist staff in the determination regarding cash flows and management of the Electric Enterprise. Phase 2 forensic services will assist in quantifying any potential losses or accounting irregularities that may have occurred, if any.

### **JUSTIFICATION:**

Staff recommends conducting the Phase 2 forensic analysis and following the recommendations that come out of Phase 2. GHJ Advisors partner, Peter Brown, CPA, CFF, ABV, leads GHJ's Forensic Services Practice, and provided a report on the results of Phase 1 to Council in Closed Session before this meeting.

Staff have also determined that there is sufficient public interest in a citywide forensic investigation to begin the process of issuing an RFP or an RFQ to obtain the most qualified submitting firm to complete the investigation. Staff recommends that members of the City Council and/or the Budget & Finance Committee score the proposals submitted to choose the firm selected.

**FISCAL IMPACT:**

The request for Phase 2 of the of the Forensic Investigation into the Electric Enterprise will increase the original approval of \$25,000 by \$75,000 for a total not-to-exceed amount of \$100,000.

The fiscal impact of a Citywide Forensic Investigation are unknown at this time, but would likely range from two to four times the cost of the current investigation.

**ALTERNATIVES:**

1. Approve by Minute Order the payment to GHJ Advisors an additional \$75,000 for Phase 2 of the Forensic Investigation into the Electric Enterprise for a total not-to-exceed amount of \$100,000 and authorize staff to proceed with a Citywide RFP/RFQ for Forensic Services as recommended.
2. Approve by Minute Order the payment to GHJ Advisors an additional \$75,000 for Phase 2 of the Forensic Investigation into the Electric Enterprise for a total not-to-exceed amount of \$100,000 and do not authorize staff to proceed with a Citywide RFP/RFQ for Forensic Services.
3. Authorize staff to proceed with a Citywide RFP/RFQ for Forensic Services and do not approve by Minute Order the payment to GHJ Advisors an additional \$75,000 for Phase 2 of the Forensic Investigation into the Electric Enterprise for a total not-to-exceed amount of \$100,000.
4. Do not approve by Minute Order the payment to GHJ Advisors an additional \$75,000 for Phase 2 of the Forensic Investigation into the Electric Enterprise for a total not-to-exceed amount of \$100,000 or authorize an RFP/RFQ for a Citywide Forensic Investigation and provide alternative direction to staff.

**ATTACHMENTS:**

1. None

Approved by:



Douglas Schulze  
City Manager