AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA

June 13, 2017
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey Street

Per City Council Resolution No. 2016-44 matters taken up by the Council before 10:00 p.m. may be concluded, but no new matters shall be taken up after 10:00 p.m. except upon a unanimous vote of the council members present and voting, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.

I. CALL TO ORDER
   • Invocation–Suffragan Bishop Preston Norman Jr, Praise Tabernacle Community Church
   • Pledge of Allegiance
   • Roll Call – Councilmembers Andrade, Franklin, Peterson, Welch, Mayor Moyer

II. REPORT ON CLOSED SESSION

III. PRESENTATIONS
   1. Bleachers for Stagecoach Days Rodeo – Presentation by Amy Pippenger

IV. PUBLIC COMMENTS/ CORRESPONDENCE/COUNCIL ANNOUNCEMENTS & REPORTS /CITY MANAGER REPORT

   PUBLIC COMMENTS – On Items Not on the Agenda

A five-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” his/her five minutes 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 last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

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

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provided responsive, fair treatment to all and is the pride of its citizens.
ANNOUNCEMENTS/REPORTS  (Upcoming Events/Other Items if any)
- City Council Reports
- City Committee Reports
- Report by City Attorney

REPORT BY CITY MANAGER

V. CONSENT ITEMS
(The following items have been recommended for approval and will be acted upon simultaneously, unless a member of the City Council wishes to remove an item for separate consideration.)

Motion: To approve Consent items 1 through 7: Items to be pulled ___, ___, discussion.
(Resolutions require a recorded majority vote of the total membership of the City Council)

1. Approval of Minutes – Special Meeting – 05/09/17 (Workshop) ..................  1
2. Approval of Minutes – Regular Meeting – 05/09/17  ..................  23
3. Approval of Minutes – Special Meeting – 05/23/17 (Closed) ..................  53
4. Approval of Minutes – Regular Meeting – 05/23/17  ..................  55
5. Approval of Minutes – Special Meeting – 05/24/17  ..................  75
6. Receive and File List of Contracts Approved under the City Manager’s Signature Authority .................................................................  93

- Open Consent Items for Public Comments
- Make Motion

VI. PUBLIC HEARINGS
(The Mayor will ask for the staff report from the appropriate staff member. The City Council will comment, if necessary, on the item. The Mayor will open the public hearing for comments from the public. The Mayor will close the public hearing. The matter will then be discussed by members of the City Council prior to taking action on the item.)

1. Consider Adopting Ordinance 1513 Regarding Recreational Vehicles, Recreational Trailers, and Utility Trailer Parking  ..................  115
   (Staff Report – Alex Diaz, Chief of Police)
Recommendations: That the City Council: 1) Conduct a public hearing; and 2) Introduce the first reading of Ordinance 1513.

Mayor asks the City Clerk to read the title of Ordinance 1513

“An Ordinance of the City Council of the City of Banning, California, Adding a New Section 10.12.105 (Recreation Vehicles, Recreational Trailers and Utility Trailers) to Title 10 (Vehicles and Traffic) Chapter 10.12 (Stopping Standing and Parking) Article 1. (Stopping or Parking Prohibitions and Limitations), Prohibiting the Parking of Recreational Vehicles, Recreational Trailers and Utility Trailers on the Public Right-of-Way Longer than Four (4) Hours.”
2. Consider Adopting Ordinance 1508 Regarding Amendments to Banning Municipal Code Chapter 3.24 –Purchasing System .............. 135
(Staff Report – Rochelle Clayton, Deputy City Manager)
Recommendations: That the City Council: 1) Approve and introduce the first Reading of Ordinance No. 1508, Amending Banning Municipal Code Chapter 3.24; and 2) Direct staff to schedule the second reading and adoption of Ordinance No. 1508 for the June 27, 2017, regular City Council Meeting.

Mayor asks the City Clerk to read the title of Ordinance 1508

“An Ordinance of the City Council of the City of Banning, California, Amending Chapter 3.24 of the Banning Municipal code to Revise Definitions, Expand the Purchasing Officer’s duties, Modify Fiscal Parameters, Clarify Procurement Options and add to the Current List of Exceptions.”

Motion: I move to waive further reading of Ordinance 1508
(Requires a majority vote of the Council)
Motion: I move that Ordinance No. 1508 pass its first reading.

3. Consider Adopting Resolution 2017-57, 1) Determining a Subsequent Environmental Document is Not Required and a Notice of Exemption Will be Filed, and 2) Approving Tentative Tract Map 35966 to Subdivide 616 Acres into 61 Lots for Financing and Conveyance Purposes, and Tentative Tract Map 35967 to Subdivide 907 Acres into 68 Lots for Financing and Conveyance Purposes, Both within the Butterfield Specific Plan Area (Pardee Homes) .................. 169
(Staff Report – Patty Nevins, Interim Community Development Dir.)
Recommendations: That the City Council consider adopting Resolution 2017-57: 1) Determining that potential environmental issues associated with the proposed tentative tract maps were analyzed in the previously certified Environmental Impact Report for the Butterfield Specific Plan project (SCH No. 2007091149). There have been no substantial changes in the project nor in the circumstances under which the project is undertaken that will require major revisions of the previous environmental documents; nor is there new information that shows the project will have a significant environmental effect or an effect more severe than originally thought. Therefore, in accordance with CEQA Guidelines Section 15162, Subsequent EIRs and Negative Declarations, a subsequent environmental document is not required and a Notice of Exemption will be filed; and 2) Approving Tentative Tract Map 35966 to create 61 lots for financing and conveyance purposes only, and Tentative Tract Map 35967 to create 68 lots for financing and conveyance purposes only, in accordance with the maps attached as Exhibits “A” and “B” respectively and subject to the conditions of approval depicted in attached Exhibit “C”.
VII. REPORTS OF OFFICERS

1. Notification of Rate Increase Based on the 2017/2018 Waste Management Rate Adjustment Request ........................................ 221
   (Staff Report – Philip Southard, Public Information Officer)
   Recommendation: That the City Council receive the 2017/2018 Waste Management Rate Adjustment Request as previously approved through Resolution 2016-68.

2. Consider Adopting Resolution 2017-55, Approving a Service Agreement with Environmental Klean Up, Inc. for Weed Abatement Services ................................................................. 235
   (Staff Report – Alex Diaz, Chief of Police)
   Recommendations: 1) That the City Council adopt: 1) Resolution 2017-55, approving a Service Agreement Contract with Environmental Klean Up, Inc. for Weed Abatement Services in an amount not to exceed $50,000 for Fiscal Year 2017/2018 with the option to renew for three (3) additional single year Periods; and 2) Authorizing the City Manager to execute the Weed Abatement Services Agreement with Environmental Klean Up, Inc.

3. Consider Adopting Resolution 2017-58, Approving an Access Easement Deed and Agreement with Banning Industrial, LP .................................................. 303
   (Staff Report – Ted Shove, Economic Development Manager)
   Recommendations: That the City Council consider: 1) Adopting Resolution 2017-58, approving an Access Easement Deed and Agreement with Banning Industrial, LP for primary and secondary access and a utility easement to their property through City-owned property for the proposed development of a 1,000,000 square foot distribution center; 2) Authorizing the Mayor to execute the agreement; and 3) Authorizing the City Attorney to take such additional, related action that may be necessary.

4. Consider Adopting Resolution 2017-59, Approving Agreement for the Reverter of Real Property Pursuant to Purchase and Sale Agreement ............................................. 323
   (Staff Report – Ted Shove, Economic Development Manager)
   Recommendations: That the City Council consider: 1) Adopting Resolution 2017-59 approving an Agreement for the Reverter of Real Property Pursuant to Purchase and Sale Agreement with Banning Office Venture, LLC. and Vanir Group of Companies, Inc. settling an existing litigation claim by the City; 2) Authorizing the Mayor to execute the agreement; and 3) Authorizing the City Attorney to take such additional, related action that may be necessary.
5. Consider Approving Amendment #7 to Agreement for Contractual Services between the City of Banning and Romo Planning Group. 
(Staff Report – Patty Nevins, Interim Community Development Dir.)
Recommendations: That the City Council consider: 1) Adopting Resolution 2017-54, Approving Amendment #7 to Agreement for Contractual Services for Temporary Planning Services through June 30, 2018; 2) Authorize the City Manager to execute the seventh Amendment with Romo Planning Group on the form that is approved by the Interim City Attorney; and 3) Authorize the Administrative Services Director to make the necessary budget adjustments and appropriations for Fiscal year 2018.

(Staff Report – Rochelle Clayton, Deputy City Manager)
Recommendation: That the City Council consider: 1) Adopting Resolution 2017-63, authorizing the contract with TMG Consulting in the amount of $47,500 to conduct the Feasibility Study for the City’s CIS & ERP system; 2) Authorize the City Manager to execute the Purchase Contract; and 3) Authorize the Administrative Services Director to make necessary budget adjustments, appropriations, and transfers.

SCHEDULE MEETINGS

BANNING UTILITY AUTHORITY- no meeting.

BANNING FINANCING AUTHORITY (BFA) - no meeting.

VIII. ITEMS FOR FUTURE AGENDAS

New items –

Pending Items – City Council
1. Schedule a meeting for the Council to discuss Vision and Mission Statement
2. Clearing of Oleander Bushes from Caltrans Right of Way (June 27th)
3. Discussion on Cannabis at all levels. (June 27th)
4. Information Technology Presentation (June 27th)

IX. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.
NOTICE: Any member of the public may address this meeting of the Mayor and City Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and 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 Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk’s Office (951-922-3102. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]
A special meeting of the Banning City Council was called to order by Mayor Moyer on May 9, 2017 at 3:32 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT:  
Councilmember Andrade  
Councilmember Franklin  
Councilmember Peterson  
Councilmember Welch  
Mayor Moyer

COUNCIL MEMBERS ABSENT:  
None

OTHERS PRESENT:  
Michael Rock, City Manager  
John C. Cotti, Interim City Attorney  
Rochelle Clayton, Deputy City Manager/Administrative Services Dir.  
Philip Southard, Public Information Officer  
Patty Nevins, Interim Community Development Director  
Marie A. Calderon, City Clerk

PUBLIC COMMENTS – On Items Not on the Agenda

There were none.

WORKSHOP

1. Short Range Transit Plan  
(Staff Report – Max Calder, Community Services Manager)

Manager Calder addressed the Council stating that he oversees the Transit Program and wanted to take the opportunity to talk about the Short Range Transit Plan process and what that plan is going to look like for the next three years. He said he will focus on some of the acronyms and the differences between their operating and capital streams. He introduced Monica Morales with Riverside County Transportation Commission whom he gave a tour of the City’s facilities, bus routes, and primary corridors. She and her colleagues are the folks that make the decisions on what and what not to fund both operationally and capital. Manager Calder said he will go over the draft format of the Pass Transit Short Range Transit Plan FY 2017/18 – 2019/20. He said a lot of the front-end text that the Council will see will change and it needs to be modified, they need to add tables that include current year data which is still being finalized but the important parts and the parts that he will focus on today will be the tables towards the back of the Draft Transit Plan beginning with page 22 (attached Exhibit “A”).
Manager Calder explained each of the tables and there were a few questions asked by the Council on some of the tables. He said that this is really a three-year look at the system and he really wanted to differentiate between operating and capital. He also explained the possibility of combining routes 5 and 6 into a clockwise/counterclockwise service and the possibility of a reverse commuter link or a reverse access to healthcare link between the Pass Area in its entirety and the desert communities and Banning is posed geographically to do that the best.

There were Council comments and dialogue with staff in regards to more efficiency with our bus routes, good ties with RTA going west into county, ties going east are very limited, Cabazon is one of the fastest growing routes, reverse commutes mid-day, demand points, and the situation with Route 1 and Beaumont.

**ADJOURNMENT**

By common consent the meeting adjourned at 3:57 p.m.

Marie A. Calderon, City Clerk

---

*THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.*
EXHIBIT “A”

Pass Transit Short Range Transit Plan
FY 2017/18 – 2019/20

DRAFT
TABLE OF CONTENTS

1 System Overview
   1.1 Description of service area and system map 3
   1.2 Population Profile and Demographic Projections 4
   1.3 Existing Service and Route Performance 6
   1.4 Current and Proposed Fare Structure 6
   1.5 Revenue Fleet 7
   1.6 Existing Facility/Planned Facilities 7
   1.7 Existing Coordination between Transit Agencies 8

2 Existing Services and Route Performance
   2.1 Fixed Route Services 9
   2.2 Dial-a-Ride Service 12
   2.3 Key Performance Indicators 13
   2.4 Productivity Improvement Efforts 14
   2.5 Major Trip Generators and Projected Growth 14
   2.6 Equipment, Passenger Amenities and Facility Needs 15

3 Planned Service Changes and Implementation
   3.1 Recent Service Changes 15
   3.2 Recommended Local & Express Routes 16
   3.3 Marketing Plans and Promotions 16
   3.4 Budget Impact on Proposed Changes 17

4 Financial and Capital Plans
   4.1 Operating and Capital Budget Narrative 18
   4.2 Funding Plans to Support Operating and Capital Program 18
   4.3 Regulatory and Compliance Requirements 19
      • ADA, DBE, EEO, Title VI
      • TDA Triennial Audit, FTA Triennial Audit, NTD
      • Alternative Fuel Vehciles
5 Tables

1. Table 4 - Summary of Funds Requested for FY 2017/18
   Table 4A - Capital Project Justification
2. Table 5.1 - Summary of Funds Requested for FY 2018/19
   Table 5.1A - Capital Project Justification
   Table 5.2 - Summary of Funds Requested in FY 2019/20
   Table 5.2A - Capital Project Justification

1 System Overview

1.1 Description of Service Area
The Banning Transit system serves several areas, including the commercial and residential areas of Banning and Cabazon, as well as the commercial areas of the Morongo Indian Reservation and limited commercial areas of Beaumont. The cities of Banning and Beaumont operate under a shared brand identity, “Pass Transit.” Pass Transit offers seamless transit by coordinating transportation services that cover approximately 40 square miles in the pass area with routes connecting to regional services.

Within the service area, population is mixed with areas of both high and low densities. The current routes have been planned by taking advantage of this knowledge, allowing the system to operate more efficiently.

Service Area Map
1.2 - Population Profile and Area Demographics

Riverside County covers 7,208 square miles with a population of over 2.2 million people in 2010, per the U.S. Census. The population density for Riverside County is 303.8 people per square mile, largely due to the vast desert areas that are not populated.

The city of Banning covers 23 square miles with a population of 30,241 people in 2014, per the U.S. Census. The population density for Banning is 1,300 per square mile. The population of the service area covered by Banning Transit has grown by approximately 29% over the last ten years.

The racial makeup of the city is as follows:

The six percentages add to more than 100 percent because individuals may report more than one race.

- Hispanic/Latino: 22.2%
- White/Caucasian: 22.1%
- African American: 16.2%
- Asian: 15.5%
- American Indian: 8.1%
- Other: 14.9%

The average age of the population is 45.1 years old.

Rider Demographics

In 2013, a survey was conducted showing the demographics of the Passtransit riders. The information gathered helped create a visual indication of the use of the system.

The racial makeup of the ridership is as follows:

Furthermore, 86% of respondents stated that they used the system’s fixed routes at least three times a week. 59% of the ridership used the bus service for local trips within the Banning/Cabazon/Cabazon area, and 49% use the transit to travel outside of Pass Transit’s service area. For 91% of ridership, the bus system is their only means of transportation. An unspecified amount of respondents stated that the transit service is readily available in their area, with a majority of riders living within a two-block radius of a bus stop.

A majority of the users of the system share the commonality of being either underemployed or unemployed, with 88% of riders reporting an annual household income of $20,000 or less and 81% of respondents reporting a family of two or more. 87% of those completing the survey report English as their primary language while 13% speak Spanish.
1.3 – Existing Service and Route Performance

The Banning Transit System currently has three fixed route services which serve the main streets and neighborhood areas of Banning, the residential and business areas of Cabazon, and the main business and shopping area of Beaumont.

Banning’s fixed route buses are accessible to people with disabilities; each bus has a wheelchair lift or ramp along with two wheelchair securement locations. Banning offers individualized travel training to assist new passengers in learning how to ride these buses. Banning Paratransit is an origin-to-destination shared ride transportation service for seniors age 60 and older and persons who are, due to their functional limitation(s), unable to use accessible fixed route bus service. Passengers must be certified eligible per guidelines established by the Americans with Disabilities Act (ADA).

1.4 – Current and Proposed Fares Structure

The Pass Transit system has adopted a mutual service fare to make traveling more accessible to those who utilize the system. The chart below has a detailed breakdown of the current fares for available services:

<table>
<thead>
<tr>
<th>Fixed Route</th>
<th>Fare Categories</th>
<th>Base Fare</th>
<th>Day Pass</th>
<th>10-Trip Punch Card</th>
<th>10-Ticket Back</th>
<th>Monthly Pass</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>$1.15</td>
<td>$3.00</td>
<td>N/A</td>
<td>$10.35</td>
<td>$36.00</td>
<td>N/A</td>
</tr>
<tr>
<td>Youth (grades K-12)</td>
<td>$1.00</td>
<td>$3.00</td>
<td>N/A</td>
<td>$10.00</td>
<td>N/A</td>
<td>$25.00</td>
</tr>
<tr>
<td>Senior (60+)</td>
<td>$0.65</td>
<td>$1.80</td>
<td>N/A</td>
<td>$6.85</td>
<td>$21.50</td>
<td>N/A</td>
</tr>
<tr>
<td>Disabled</td>
<td>$0.65</td>
<td>$1.80</td>
<td>N/A</td>
<td>$6.85</td>
<td>$21.50</td>
<td>N/A</td>
</tr>
<tr>
<td>Military Veterans</td>
<td>$0.65</td>
<td>$1.80</td>
<td>N/A</td>
<td>$6.85</td>
<td>$21.50</td>
<td>N/A</td>
</tr>
<tr>
<td>Child (44” tall or under, must be accompanied by full fare paying passenger)</td>
<td>$2.25</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Zone Fare</td>
<td>$2.25</td>
<td>$2.25</td>
<td>$2.25</td>
<td>$2.25</td>
<td>$2.25</td>
<td>N/A</td>
</tr>
<tr>
<td>(Cabazon Residential Area)</td>
<td>$2.25</td>
<td>$2.25</td>
<td>$2.25</td>
<td>$2.25</td>
<td>$2.25</td>
<td>N/A</td>
</tr>
<tr>
<td>Deviations (Routes 3 &amp; 4)</td>
<td>$2.25</td>
<td>$2.25</td>
<td>$2.25</td>
<td>$2.25</td>
<td>$2.25</td>
<td>N/A</td>
</tr>
<tr>
<td>Active Military</td>
<td>FREE</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>GoPass (During school season only)</td>
<td>FREE</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

1.5 – Revenue Fleet

Banning Transit System operates seven fixed route vehicles all of which are powered by compressed natural gas (CNG). The vehicles are equipped with racks for two bicycles and are in compliance with the ADA with mobility device lifts and tie-down stations per bus. The transit system also has five vehicles that are classified as Dial-A-Ride (two in revenue service and one as a spare). One of the two remaining is utilized as an alternate for the fixed-route if needed, and other was auctioned in the 3rd quarter of FY 2017. All are in compliance with the ADA, with mobility device lifts and tie-down stations for four mobility devices. Banning Pass Transit also has four support vehicles which are used for driver relief or administrative errands. Two relatively new fixed route vehicles were delivered at the end of June 2015.

A 32’ El Dorado National EZ Rider II was delivered in September 2016 and a second will be delivered in December 2017.

See the City of Banning Fleet Inventory Table 1 for individual vehicle characteristics.

1.6 – Existing Facility/Planned Facilities

Banning Transit System functions as a department within the City and utilizes existing facilities. Transit administrative staff is housed at the City’s Community Center located at 780 North San Gorgonio Avenue, where bus passes are sold, schedules are available and all ADA applications are processed. Dispatch and general telephone information is also provided at the transit office within the Community Center.
2 Existing Service and Route Performance

2.1 Fixed Route Service

The Banning Transit System currently has three fixed route services which serve downtown and neighborhood areas of Banning, both the residential and business areas of Cabazon, and the main commercial area of Beaumont. The main service arterial is Ramsey, which between Beaumont’s route 2 and Banning’s route 1 split frequency, ridership and fare revenues. It would be prudent to evaluate the level of service through Ramsey, which is detrimentally impacting Banning’s fare box recovery. If Banning were able to operate independently on Ramsey and ridership volumes confirmed that 30 minute frequency is prudent, then this municipality should be funded to operate those service levels. Transfers to Beaumont Pass Transit can continue to be made at Walmart.

Route 1 – Beaumont/Banning/Cabazon

Passtransit Route 1 is among the most used route in the system, operating primarily along Ramsey Street and 6th Street and serving the commercial areas of Cabazon and Casino Morongo. Ridership on Route 1 accounts for approximately 80% of the total use of the system.

While the longest in distance, this route operates on one-hour headway from Beaumont to Casino Morongo. The major stops on this line include Albertsons, Walmart, Banning City Hall, Mid-County Justice Center, San Gorgonio Memorial Hospital, Casino Morongo and the Desert Hills Outlets in Cabazon.

![Route 1 Map](image-url)
The second loop of Route 1 also runs on an hourly headway departing from Casino Morongo and servicing the Cabazon Community Center and the residential areas of Cabazon. Two buses are operated on this route which allows for hourly service to the two respective areas.

Route 5 – Northern Banning

Route 5 accounts for 25 percent of Pass Transit use, providing service to the areas that lie north of the I-10 Freeway in the City of Banning. Major stops on this route are the Mid-County Justice Center, Banning City Hall, the Banning Community Center, Library, Medical Facilities, San Gorgonio Memorial Hospital and the commercial area of Beaumont. Banning staff will evaluate how best to serve the northerly and southerly markets in FY 2018.

Route 6 – Southern Banning

Accounting for 15% of Pass Transit use, Route 6 provides service to the southern area of Banning. Major stops on this route are the Mid-County Justice Center, Banning City Hall, the Mt. San Jacinto Pass Campus, Banning High School, Smith Correctional Facility, Medical Facilities, San Gorgonio Memorial Hospital and the commercial area of Beaumont. Banning staff will evaluate how best to serve the northerly and southerly markets in FY 2018.

Banning Pass Transit fixed route service hours are as follows:

<table>
<thead>
<tr>
<th>Days</th>
<th>Route</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday – Friday</td>
<td>Route 1</td>
<td>4:30 A.M. – 10:45 P.M.</td>
</tr>
<tr>
<td>Monday – Friday</td>
<td>Route 5</td>
<td>5:30 A.M. – 6:30 P.M.</td>
</tr>
<tr>
<td>Monday – Friday</td>
<td>Route 6</td>
<td>6:00 A.M. – 6:00 P.M.</td>
</tr>
<tr>
<td>Saturday &amp; Sunday</td>
<td>Route 1</td>
<td>8:00 A.M. – 6:00 P.M.</td>
</tr>
<tr>
<td>Saturday &amp; Sunday</td>
<td>Routes 5 &amp; 6</td>
<td>8:00 A.M. – 5:00 P.M.</td>
</tr>
</tbody>
</table>

Banning Pass Transit offers limited service hours, 9:00 A.M. to 5:00 P.M., on the following holidays: Martin Luther King Day, President’s Day, Labor Day, Veterans Day, and the day after Thanksgiving.


All aforementioned fixed routes are consistently monitored and will be modified as needed to better serve unmet transit needs.
2.2 – Dial-A-Ride Service

Pass Transit Dial-A-Ride is a service offered to seniors, aged 60 and older, persons with disabilities and passengers eligible under the Americans with Disabilities Act (ADA). Limited service hours are available for non-ADA passengers. This category of passengers is also required to fill out a certification application to determine eligibility. If these terms are met, the applicant will receive a card certifying their eligibility to ride.

Pass Transit Dial-A-Ride is a service offered within the city limits of Banning and Beaumont as well as within a ¼ mile boundary of Routes 1 and 2 service areas (including Cabazon).

The primary uses for the Dial-A-Ride system are transportation to medical appointments, workshop programs for persons with disabilities, shopping areas, employment. Dial-a-Ride services also provide connections to the Riverside Transit Agency and Pass Transit Fixed Routes. Additionally, demand for para transit is expected to grow. This is a universal transit/para transit theme nationwide and Banning is anticipated to continue to see growth in the para transit program. Furthermore, demand for Saturday and Sunday para transit is expected to grow from somewhat inconsequential from a budget/demand standpoint to significant in the coming fiscal years.

Hours for the Dial-A-Ride program are as follows:

<table>
<thead>
<tr>
<th>Days</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seniors (age 60 &amp; older) &amp; Persons without ADA Certification</td>
<td>8:00 A.M. – 3:00 P.M. No Service</td>
</tr>
<tr>
<td>Monday - Friday</td>
<td></td>
</tr>
<tr>
<td>Saturday &amp; Sunday</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Days</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Persons with ADA Certification</td>
<td>7:00 A.M. – 7:00 P.M. Limited service when three or more persons request service.</td>
</tr>
<tr>
<td>Monday - Friday</td>
<td></td>
</tr>
<tr>
<td>Saturday &amp; Sunday</td>
<td></td>
</tr>
</tbody>
</table>

2.3 – Key Performance Indicators

The Riverside County Transportation Commission (RCTC) has adopted a Productivity Improvement Plan (PIP) for the transit and commuter rail operators of Riverside County. The PIP sets forth efficiency and effectiveness standards that the transit operators are to meet. Progress towards these standards is reported quarterly to the Commission. The following table on the next page shows the operating performance indicators adopted in the PIP and this plan’s projections for the coming year.

<table>
<thead>
<tr>
<th>Performance Statistic</th>
<th>FY 2015</th>
<th>FY 2016</th>
<th>FY 2017</th>
<th>FY 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unmet Passenger Journeys</td>
<td>144,918</td>
<td>137,584</td>
<td>122,740</td>
<td>165,701</td>
</tr>
<tr>
<td>Operating Cost per Revenue Hour</td>
<td>$24.75</td>
<td>$25.03</td>
<td>$26.14</td>
<td>$27.44</td>
</tr>
<tr>
<td>Farebox Revenue Ratio</td>
<td>11.27%</td>
<td>13.00%</td>
<td>11.59%</td>
<td>12.12%</td>
</tr>
<tr>
<td>Subsidy per Passenger</td>
<td>$8.48</td>
<td>$7.98</td>
<td>$7.61</td>
<td>$10.30</td>
</tr>
<tr>
<td>Subsidy per Passenger Mile</td>
<td>$3.70</td>
<td>$3.84</td>
<td>$3.81</td>
<td>$1.02</td>
</tr>
<tr>
<td>Subsidy per Revenue Hour</td>
<td>$59.99</td>
<td>$64.72</td>
<td>$69.42</td>
<td>$95.90</td>
</tr>
<tr>
<td>Subsidy per Revenue Mile</td>
<td>$2.82</td>
<td>$3.17</td>
<td>$3.20</td>
<td>$1.98</td>
</tr>
<tr>
<td>Passengers per Revenue Mile</td>
<td>0.30</td>
<td>0.16</td>
<td>0.17</td>
<td>0.19</td>
</tr>
</tbody>
</table>

Projections are based on operating data through March 2017 and projected through June 2017. Since these are only estimates, the performance indicators are subject to change.

For Fiscal Year 2017/2018, the Banning Transit System will attempt to be in compliance with at least 4 of the 7 performance targets.

Additional details on key indicators for demand responsive and fixed route services are shown in Table 2.

The Banning Transit System does not receive any federal funding and is not required to report to the National Transit Database.
2.4 – Productivity Improvement Efforts

In order to meet performance standards, routes are continually monitored and analyzed to insure that the service being provided runs as efficiently as possible.

Banning Pass Transit completed a Comprehensive Operations Analysis (COA) with Transportation Management & Design, Inc. In May of 2014, resulting in route changes for the entire system. Ultimately, to most effectively serve the Cabazon community it has been determined that including that segment of Route 1 is most prudent. With hourly frequency, Route 1 is able to service those residents more directly and sustain a better farebox recovery due to the Ramsey corridor. The COA was not used last Fiscal Year for service design and is not the basis for current or future service planning adjustments in Banning.

Banning Pass Transit has experienced a decrease in farebox revenue with the additional service of the Beaumont Route 2. While the additional bus allows for 30 minute service from Walmart in Beaumont to Casino Morongo, the growth in ridership that was projected for the route has not been realized. Thus, Banning had requested that beginning January 1, 2017 Beaumont reduce their trips through Banning by 50%. This did not occur and the importance of the loss of fare revenue down the service arterial Ramsey must be reemphasized. This detrimentally impacts farebox recovery and the Banning Transit Budget, along with oversaturating this corridor with disproportionately high frequency.

2.5 – Major Trip Generators and Projected Growth over the next two years

Major passenger trip destinations that the Banning Pass Transit services are the Sun Lakes Plaza Shopping Center, the 2nd Street Marketplace in Beaumont, the Walmart Supercenter in Beaumont, the Banning Justice Center, San Gorgonio Pass Hospital, Beaver and Loma Linda Medical Plaza, the Cabazon Outlet Stores, Desert Hills Premium Outlets and Casino Morongo and the Mt. San Jacinto College Pass Campus. There is a high demand for service to these destinations whether for employment, necessities or pleasure. Looking into FY 2019, Banning may look to request funding for reverse commute service that connects the Pass area with the desert communities and Sunline. Staff will explore routing, service planning and the budget for service during FY 2018. Additionally, demand for paratransit is expected to grow. This is a universal transit/paratransit theme nationwide and Banning is anticipated to continue to see growth in the paratransit program.

2.6 – Equipment, Passenger Amenities and Facility Needs

It is the City of Banning’s goal to acquire, upgrade, and maintain equipment with the federal Transit Asset Management (TAMs) Business Model in mind to manage the nexus between State of Good Repair (SGR) and Safety Management System (SMS).

All fixed route and Dial-A-Ride vehicles are equipped with security cameras and recording equipment. Two new fixed route buses were placed into service July, 2015. Grant funds have been received for a additional 32’ passenger coaches, one of which was delivered in September 2016 and another has been ordered and will be delivered by December 2017. The standardization and enhancement for both fleet and facility security cameras has also been budgeted and will be implemented in Fiscal Year 2018. One staff vehicle and one supervisor truck will be ordered and delivered in Fiscal Year 2018.

This year funds are being requested for the replacement of a hydraulic lift at the fleet maintenance shop and an Intelligent Transportation Scheduling System (ITS). The former is being supplemented by FY 2017 funds, while the latter merges several 0800 funding streams into a consolidated project along with additional FY 2018 STA capital funds. This project will be implemented in three phases from FY 18 through FY 20. Ultimately, Banning will achieve the goal of automating much of the system with state of the industry technology. Features will include Computer Assisted Dispatching (CAD), Automated Vehicle Location (AVL), Interactive Voice Response (IVR), Automated fare collection options, passenger amenities like “where is my bus,” robust reporting, integration with TransTrack for service planning and more granular analysis, and other modules. This project is scalable and will be budgeted, funded and implemented in phases by design. It will be a perennial SRTF request to ensure State of the Industry technology is maintained and State of Good Repair is achieved.

3. Planned Service Changes and Implementation

3.1 – Recent Service Changes

As mentioned previously, there were service changes made in July of 2014; those changes were based upon recommendations that were made as a result of the COA. The changes that were made have not had the anticipated results, and thus, route changes were made to improve service and increase ridership.

The COA had called for a Cabazon Circulator route that would connect residents in that community to Morongo Casino, and thereby, the entire Pass Translit System. Operationally, such a circulator route is not feasible and leads to one additional vehicle (along with corresponding hours and miles) to serve no more than the same number of passengers best case scenario due to it also forcing a transfer. Therefore Banning operates two vehicles on route 1 resulting in hourly frequency, and for passengers on the Ramsey...
corridor, de facto 30 minute headways with Beaumont continuing status-quo with their Route 2. This diffuses ridership and will continue to impede adequate farebox recovery for the Banning system.

The changes that were made resulted in reduced headway times and expanded service hours at the MSJC Pass Campus. Classes at the college campus end at 9:00p.m., and service at the college continues to 9:30p.m., allowing students who rely on the bus to attend evening classes and make connections to RTA service for regional travel.

Beginning in January 2017, Beaumont Pass Transit was scheduled to reduce their route 2 service down the Ramsey corridor by 50% from hourly frequency to two hour headways, but this did not occur. Banning will continue to operate Route 1 on its current schedule. This reduction was determined to be necessary due to over saturation of service in Banning’s service area. While service has been increased over the past two years, Banning Pass Ridership and farebox revenue both declined. Obviously, service frequency directly impacts farebox revenue and Banning had planned on the reduced level of service 2 to improve that retention from a budget standpoint. Major growth projected for the downtown area which will generate a significant increase in ridership has not yet occurred (i.e. County Courthouse being fully operational, retail and office space being built and a substantial amount of county offices relocating to the area).

3.2 – Recommend Local and Express Routes

Banning will explore the possibility of requesting funding for a reverse commuter and desert link route in fiscal year 2019. In the coming fiscal year 2018, staff will review estimated demand, service planning, and budgeting for this route. At this point, it is hypothetical pending due diligence research and review, but could mature into a service recommendation and request depending on the outcome of the analysis.

Meanwhile, Banning staff will review the strengths and weaknesses of combining routes 5 and 6 into a clockwise / counterclockwise service. Independently, each route would have a 70-75 minute headway, with a combined 35-40 minute frequency for passengers. This may more effectively serve the local southern and northern corridors than the current alignment. A thorough review and analysis will proceed the decision of whether to proceed with adjustment. If the decision is made to proceed with the change, staff will outreach to the community to ensure awareness.

3.3 – Marketing Plans and Promotions

Efforts have been made to market the Pass Transit System over the past year and will continue in the coming year. These efforts include purchasing advertising on a map of the San Gorgonio Pass Area, distribution of route maps by delivery to the library, Chamber of Commerce, San Gorgonio Memorial Hospital, Mt. San Jacinto Pass Campus, local hotels and other businesses.

The following marketing efforts will be undertaken to promote ridership growth.

1. Continue outreach programs to schools and at community events.
2. Attend senior community meetings to provide information.
3. Participation in the MSJC GO-PASS Program to encourage ridership of college students.
4. Articles in local papers highlighting new transportation routes.
5. Instill a Travel Navigation initiative in customer service.
6. Incorporate and coordinate travel training opportunities for Pass Traverse with regional providers including Sunline, RTA and Beaumont.
7. Offer “Rider Appreciation Day” to raise awareness of benefits of public transportation.
8. Continue to participate with Transportation Now, Senior Transportation Assistance Group, Pass Area Senior Connections, Pass Area Veterans Assistance, Cabazon Community Resources and other efforts.

The City of Banning’s website at www.ci.banning.ca.us provides basic Pass Transit route and schedule information, as well as links to route information for neighboring agencies. Customers can submit comments, complaints, concerns and suggestions through the city website.

Banning Pass Transit strives to operate service in a manner that will maximize system productivity, efficiency, as well as the use of subsidies.

- Develop an ongoing planning process with key agencies and organizations within the region.
- Ensure that services are operated in a manner to maximize safety, to the riders, the public and the operators.
- Develop a core group of services that connect key activity points and commit to providing service along those corridors.
- Continually review all services to evaluate the efficiency and needs of the transit system.
3.4 – Budget Impact on Proposed Changes

Banning transit farebox recovery and the anticipated budget is detrimentally impacted by Beaumont's continued hourly frequency on Route 2 that serves the primary Banning arterial of Ramsey Street. While the combination of Route 1 and 2 provide a very high level of service to the customer, reduces the visibility of the Banning Pass Transit farebox recovery. In fiscal year 2016/17 Banning will review more efficiently aligning Routes 5 and 6 into a clockwise/counterclockwise circulator to increase frequency and efficiency. The latter should have a positive influence on farebox recovery and not increase operating costs. Finally, Banning will be using Low Carbon Transit Operations Program (LCTOP) funds to increase Saturday demand response service levels for people with disabilities and senior citizens.

4 FINANCIAL AND CAPITAL PLANS

4.1 – Operating and Capital Budget

For FY 17/18, operating funds needed to operate the Banning Pass Transit System are $1,850,000 for the Fixed Route and DAR. The operating funds consist of $1,587,439 local transportation funds (LTF) and $74,561 in Low Carbon Transit Operations Program (LCTOP) funds. The projected farebox revenue for FY 16/17 is $187,500. Additional funding in the amount of $500 will come from interest income.

Staff will continue to complete previously funded Capital projects in FY 17/18 and will continue to operate service in a manner that will maximize system productivity and efficiency. As previously reviewed, this year funds are being requested for the replacement of a hydraulic lift at the fleet maintenance shop and an Intelligent Transportation Scheduling System (ITS). The former is being supplemented by FY 2017 funds, while the latter merges several 08/08 funding streams into a consolidated project along with additional FY 2018 STA capital funds. This project will be implemented in three phases from FY 16 through FY 20. Ultimately, Banning will achieve the goal of automating much of the system with state of the industry technology. Features will include CAD/AVL, IVR, Automated fare collection options, passenger amenities like "where is my bus," robust reporting, integration with TransTrack for service planning and more granular analysis, and other modules. The post-FAST FTA business model of Transit Asset Management will be kept in mind to ensure the maintenance of State of Good Repair (SGR) and the nexus of Safety/Security with that aforementioned standard.

4.2 – Funding Plans to Support Proposed Operating and Capital Program

Capital projects are funded through STA funds, Public Transportation Modernization, Improvement, and Service Enhancement Account Program and Proposition 1B Security grants for Banning Pass Transit.

Operating costs will be fully funded through LTF funds, LCTOP, farebox revenue and interest.

4.3 – Regulatory and Compliance Requirements

The City of Banning submitted an Americans with Disabilities Act Paratransit Plan to the FTA on January 25, 1992. Pass Transit fixed route buses are equipped with ADA compliant mobility device lifts and are accessible to persons with disabilities. A procedure is in place to provide service to a customer in a mobility device should a fixed route bus lift fail.

Banning Pass Transit Dial-A-Ride services provide ADA complementary paratransit service for the fixed route services operated by Banning Transit System. Beaumont Transit System offers the service through its Pass Transit Dial-a-Ride operation. The system uses a self-certification process with professional verification. Banning Transit System staff processes ADA certifications for Pass Transit operations.

Title VI

Banning Transit System/Pass Transit does not utilize federal funds for operating expenses. As such, Title VI requirements do not currently apply to the transit system.

Alternatively Fueled Vehicles (RTC Policy)

Pass Transit fixed-route buses are CNG powered. Pass Transit Dial-A-Ride vehicles (which are less than 23,000 lbs. GVW and 15-passerger capacity), administrative and driver relief vehicles are gasoline-powered.
Table 4 - Summary of Funds Requested for FY 2017/18

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Capital Project Number</th>
<th>Total Amount of Funds</th>
<th>LTF</th>
<th>STLA</th>
<th>Prop 1B (PF/MSA)</th>
<th>Prop 1B Secure</th>
<th>Match and LTF</th>
<th>LTFCP</th>
<th>Fund #</th>
<th>Other (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 17/18 Operating Assistance</td>
<td></td>
<td>$1,381,439</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Subtotal: Operating</td>
<td></td>
<td>$1,381,439</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>STS Transit and Pedestrian Scheduling</td>
<td>16-01</td>
<td>$49,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Systemity Hybrid Lift</td>
<td>16-02</td>
<td>$99,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>STS Transit and Pedestrian Scheduling</td>
<td>16-03</td>
<td>$15,202</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal: Capital</td>
<td></td>
<td>$15,202</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Total: Operating &amp; Capital</td>
<td></td>
<td>$1,496,641</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

Notes:
- Other (1) is from interest income.
- (1) Funds pending more information from Finance available before second revision.

Future vehicle purchases will be in compliance with the RCTC and South Coast AQM policies and regulations. The CNG Fueling Station at the City of Banffing Corporation Yard provides expanded CNG capacity and reliability. Increased capacity and reliability will not be an issue in the foreseeable future.

Revised 5/4/2017
Summary of FY 2017/18
Funds Requested.xls
Table 4A – Capital Project Justification

PROJECT NUMBER (If existing project in FTIP, indicate FTIP ID number)
SRTP Project No 18-01: FTIP No:

PROJECT NAME: ITS Transit and Paratransit Scheduling System

PROJECT DESCRIPTION: (For Bus Purchase projects, indicate fuel type)
$60,000 in 2017_18 is being requested to complete phase 1 of which will be a multi-phase Intelligent Transportation Scheduling System project. This will include an automated fixed route scheduling application, GPS/GIS (Tablets or MDTs), computer assisted dispatch, the necessary hardware for initial implementation (computers, MDTs, tablets, etc.), Interactive Voice Response (i.e. automate much of the reservations/dispatch to passenger communication and make the system more secure), automated fare collection, automated passenger counts, automated applications passengers can use to identify where the bus is, and other modules to be phased in as funding permits and the “ITS System” adapts and grows to maintain state of the industry standards and state of good repair. This $60,000 project will be merged with previous STA SRTP cycles to create an initial project budget of $213,467.37 that will allow for a consolidated ITS procurement to be phased in from an implementation standpoint based on the selected Proposer(s) project critical path. To summarize, $153,467.37 in previous SRTP allocations would be combined with this request for $60,000 in FY 2017_18 funding.

PROJECT JUSTIFICATION:
This project will have a positive impact on service quality, efficiency, data management, reporting, budgeting, customer service and almost every aspect of the Banning Pass Transit/Paratransit System. ITS and Automated Fare Collection systems have made tremendous strides in terms of functionality, integration and scalability. Banning will benefit from the industry having vendors that respond to all relevant RFPs, those that focus on bigger transit systems, and others whose business model is specifically designed for smaller systems such as Banning. Banning Pass Transit has the benefit of going “from nothing” to an ITS system that will be a perennial SRTP project request. The scalability factor will allow Banning to implement what is affordable and prudent to do any given fiscal year, while constantly benefiting from state of the industry enhancements. The specifications for the this ITS system will require that the successful proposer(s) “solution(s)” are open interface and can be integrated with other systems as determined necessary (e.g. external client technology such as Beaumont, RTA, or Sunline OR internal clients such as Finance, Payroll, Maintenance, Police or Public Works). Furthermore, the City of Banning will oversee the installation and maintenance of these systems with the FTA Transit Asset Management Business Model in mind. This will ensure meeting expectations as the City of Banning may choose to look at Federal funding options in the future, such as S310.

PROJECT SCHEDULE (If existing project in FTIP, indicates original start date and new completion date):
Specs drawn: July and August 2017 (RFP on Street September – December 2017)
Order: Award and Notice to Proceed January 2018
Delivery and Installation: Phased Implementation March – June 2018

PROJECT FUNDING SOURCES (REQUESTED):
STA Funds $60,000

Prior Year Projects of a Similar Nature with Unexpended Balance Including Projects Approved But Not Yet Ordered (Include FTA Grant #, FTIP ID # and RRTC’s SRTP Capital Grant #)

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>FTIP ID #</th>
<th>Project #</th>
<th>Description</th>
<th>Unexpended balance (as of 6/30/17)</th>
</tr>
</thead>
<tbody>
<tr>
<td>09-01</td>
<td></td>
<td></td>
<td>Schedule Holders (Reclassified for ITS Module Implementation)</td>
<td>5,000.00</td>
</tr>
<tr>
<td>09-02</td>
<td></td>
<td></td>
<td>GPS System DAR</td>
<td>25,000.00</td>
</tr>
<tr>
<td>09-03</td>
<td></td>
<td></td>
<td>Paratransit Scheduling Software</td>
<td>25,000.00</td>
</tr>
<tr>
<td>09-04</td>
<td></td>
<td></td>
<td>Computer Equipment</td>
<td>53,248.55</td>
</tr>
<tr>
<td>09-05</td>
<td></td>
<td></td>
<td>Security Cameras on Buses</td>
<td>44,254.55</td>
</tr>
<tr>
<td>09-06</td>
<td></td>
<td></td>
<td>Automated Annunciator &amp; Display Equipment</td>
<td>966.26</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>153,467.37</strong></td>
</tr>
</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: (If existing project in FTIP, indicate FTIP ID number)
SRTP Project No 18-02: FTIP No:

PROJECT NAME: Heavy Duty Hydraulic Lift

PROJECT DESCRIPTION: (For Bus Purchase projects, indicate fuel type)
This request for $50,000 will be combined with last year’s authorization of $50,000, which included $44,591 in STA and $5,409 in residual PTMSEA Prop 1B funding to contribute toward the acquisition and installation of a Heavy Duty Hydraulic Lift for the Fleet Maintenance Facility.

PROJECT JUSTIFICATION:
This project will enhance the capacity of the Fleet Maintenance Division and enable significantly more onsite repairs. This will reduce the cost of subcontracting out repairs that cannot be completed currently due to the lack of this essential piece of equipment.

PROJECT SCHEDULE: (If existing project in FTIP, indicate original start date and new completion date):
Specs drawn: September 2017
Order: December 2017
Delivery and Install: February 2018

PROJECT FUNDING SOURCES (REQUESTED):
STA Funds $50,000

Prior Year Projects of a Similar Nature with Unexpended Balance including Projects Approved but Not Yet Ordered (Include FTA Grant #, FTIP ID # and RCTC’s SRTP Capital Grant #)

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>FTIP ID #</th>
<th>RCTC/SRTP Project #</th>
<th>Description</th>
<th>Unexpended balance (as of 06/30/17)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: (If existing project in FTIP, indicate FTIP ID number)
SRTP Project No: 18-03

PROJECT NAME: ITS Interactive Voice Response Module

PROJECT DESCRIPTION: (For Bus Purchase projects, indicate fuel type)
This Prop 1B Security Project in the amount of $15,362 will fund the ITS module that will enable automated communication between dispatch and vehicles. Furthermore, it will automate much of the communication between passengers and staff. From a security standpoint, this will allow for alerts, silent communication in the presence of a security threat and increased safety. An obvious residual benefit is that it will significantly increase customer service while reducing unnecessary staff time performing tasks that can be automated.

PROJECT JUSTIFICATION:
This project will enhance the safety and security of Banning Pass Transit. Furthermore, it goes directly to the goals identified in the FTA’s State of Good Repair and Safety Management System policies. The City of Banning will oversee the installation and maintenance of these systems with the Transit Asset Management Business Model in mind. Any opportunities to integrate IVR technology with the already funded vehicle security camera project will be examined and implemented if feasible and warranted.

PROJECT SCHEDULE (If existing project in FTIP, indicate original start date and new completion date):
Specs: July and August 2017 (RFP on September – December 2017)
Order: Award and Notice to Proceed January 2018
Delivery and Installation: Phased Implementation March – June 2018

PROJECT FUNDING SOURCES (REQUESTED):
Prop 1B PTMSEA in the amount of $15,362

PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE INCLUDING PROJECTS APPROVED BUT NOT YET ORDERED (INCLUDE FTA GRANT #, FTIP ID # AND RCTC’S SRTP CAPITAL GRANT #)

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>FTIP ID #</th>
<th>RCTC/SRTP Project #</th>
<th>Description</th>
<th>Unexpended balance (as of 6/30/17)</th>
</tr>
</thead>
</table>
| 09-01       | Schedule Holders (Reclassified for ITS Module Implementation) | 5,000.00
| 09-02       | GPS System DAR | 25,000.00
| 09-03       | Paratransit Scheduling Software | 25,000.00
| 09-04       | Computer Equipment | 53,246.55
| 09-05       | Security Cameras on Buses | 44,254.50
| 09-06       | Automated Enunciator & Display Equipment | 905.26
| **TOTAL**   |           |                     |             | **153,467.37**                   |
Table 5.1 – Capital Project Justification

<table>
<thead>
<tr>
<th>PROJECT NUMBER (if existing project in FTIP, indicate FTIP ID number)</th>
<th>SRTP Project No 19-01: FTIP No:</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROJECT NAME: ITS Transit and Paratransit Real Time Passenger Information</td>
<td></td>
</tr>
<tr>
<td>PROJECT DESCRIPTION: (For Bus Purchase projects, indicate fuel type)</td>
<td></td>
</tr>
<tr>
<td>$50,000 is being requested for the 2nd Phase of the Banning Pass Transit Intelligent Transportation Scheduling System (ITS), which is the &quot;passenger amenity&quot; section of the project. This will include technology at every bus stop that will allow passengers to have access to bus arrival time. Furthermore, this will include electronic information displays at certain points that will provide system wide real time information. These signs, including solar equipment, are about $5,000 per unit including installation and set-up. The entire passenger amenity portion of the project will be implemented over 2 years and conclude during FY 2020, which includes a final $50,000 in STA capital during that fiscal year.</td>
<td></td>
</tr>
<tr>
<td>PROJECT JUSTIFICATION:</td>
<td></td>
</tr>
<tr>
<td>Phase 2 (FY 19) and Phase 3 (FY 20) will conclude the Banning Pass Transit ITS project. These phases include important real time passenger information systems. ITS and Passenger Information Systems have made tremendous strides in terms of functionality, integration and scalability. Banning will benefit from the industry having vendors that respond to all relevant RFIs, those that focus on bigger transit systems, and others whose business model is specifically designed for smaller systems such as Banning. Banning Pass Transit has the benefit of going &quot;from nothing&quot; to an ITS system that will be a perennial SRTP project request. The scalability factor will allow Banning to implement what is affordable and prudent to do any given fiscal year, while constantly benefiting from state of the industry enhancements. The specifications for the this ITS system will require that the successful propose(s) &quot;solution(s)&quot; are open interface and can be integrated with other systems as determined necessary (e.g. external client technology such as Beaumont, RTA, or Sunline OR Internal clients such as Finance, Payroll, Maintenance, Police or Public Works). Furthermore, the City of Banning will oversee the installation and maintenance of these systems with the FTA Transit Asset Management Business Model in mind. This will ensure meeting expectations as the City of Banning may choose to look at Federal funding options in the future, such as 5310.</td>
<td></td>
</tr>
<tr>
<td>PROJECT SCHEDULE: (if existing project in FTIP, indicate original start date and new completion date)</td>
<td></td>
</tr>
<tr>
<td>Specs drawn: July and August 2017 (RFP on Street September – December 2017)</td>
<td></td>
</tr>
<tr>
<td>Order: Award and Notice to Proceed January 2018</td>
<td></td>
</tr>
<tr>
<td>Delivery and Installation: Subsequent to Phase One (July 2018 – June 2019)</td>
<td></td>
</tr>
</tbody>
</table>
PROJECT FUNDING SOURCES (REQUESTED):
STA Funds $50,000

PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE INCLUDING PROJECTS APPROVED BUT NOT YET ORDERED (INCLUDE FTA GRANT #, FTIP ID # AND RCTC'S SRTP CAPITAL GRANT #)

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>FTIP ID #</th>
<th>RCTC/SRTP Project #</th>
<th>Description</th>
<th>Unexpended balance (as of 6/30/17)</th>
</tr>
</thead>
<tbody>
<tr>
<td>09-01</td>
<td></td>
<td>Schedule Holders (Reclassified for ITS Module Implementation)</td>
<td>5,000.00</td>
<td></td>
</tr>
<tr>
<td>09-02</td>
<td></td>
<td>GPS System DAR</td>
<td>25,000.00</td>
<td></td>
</tr>
<tr>
<td>09-03</td>
<td></td>
<td>Paratransit Scheduling Software</td>
<td>25,000.00</td>
<td></td>
</tr>
<tr>
<td>09-04</td>
<td></td>
<td>Computer Equipment</td>
<td>53,246.55</td>
<td></td>
</tr>
<tr>
<td>09-05</td>
<td></td>
<td>Security Cameras on Buses</td>
<td>44,254.56</td>
<td></td>
</tr>
<tr>
<td>09-06</td>
<td></td>
<td>Automated Enunciator &amp; Display Equipment</td>
<td>966.26</td>
<td></td>
</tr>
<tr>
<td>18-01</td>
<td>09-03</td>
<td>ITS System</td>
<td>60,000.00</td>
<td></td>
</tr>
<tr>
<td>18-C3</td>
<td></td>
<td>IVR System</td>
<td>15,362</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>236,829.37</td>
<td></td>
</tr>
</tbody>
</table>

Table 5.1 – Capital Project Justification

PROJECT NUMBER (If existing project in FTIP, indicate FTIP ID number)
SRTP Project No 19-02: FTIP No:

PROJECT NAME: Automated External Defibrillator (AED)

PROJECT DESCRIPTION: (For Bus Purchase projects, indicate fuel type)
$10,000 is being requested to install Automated External Defibrillator (AEDs) at all transit related facilities. This will include capitalizing five years of AED Program Management and Monitoring. Program Management is required of municipal AED Programs.

PROJECT JUSTIFICATION:

Our passengers include the most vulnerable populations and markets. Individuals obtain fare media and other transit materials at our community center every day. Meanwhile, at our Maintenance Facility, banning staff are obviously around materials and engaged in physical activity that is relatively risky. Furthermore, anyone can have something happen that renders them unresponsive at any time and in need of help. Standard CPR has only a 12-16% success rate for individuals in these emergency situations. Meanwhile, AEDs have a 90% success rate if administered in the first 4 minutes after someone becomes unresponsive. Having AEDs and individuals trained to use them is the responsible thing to do for any government agency or transit system.

PROJECT SCHEDULE (If existing project in FTIP, indicate original start date and new completion date):
Specs drawn: Issue Purchase Order July 2018
Order: September 2018
Delivery: Implementation, Training, and Installation December 2018

PROJECT FUNDING SOURCES (REQUESTED):
STA Funds $10,000

PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE INCLUDING PROJECTS APPROVED BUT NOT YET ORDERED (INCLUDE FTA GRANT #, FTIP ID # AND RCTC’S SRTP CAPITAL GRANT #)

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>FTIP ID #</th>
<th>RCTC/SRTP Project #</th>
<th>Description</th>
<th>Unexpended balance (as of 6/30/17)</th>
</tr>
</thead>
</table>
Table 5.1 – Capital Project Justification

PROJECT NUMBER (If existing project in FTIP, indicate FTIP ID number)
SRTP Project No 19-03; FTIP No:

PROJECT NAME: Mini-Bus Replacement

PROJECT DESCRIPTION: (For Bus Purchase projects, indicate fuel type)
$75,000 is being requested to replace an accessible ADA Paratransit Mini-Bus. This will be a CNG vehicle with a 5 Year/150,000 mile useful life.

PROJECT JUSTIFICATION:
Banning Pass Transit has the goal of maintaining a State of Good Repair with the Transit Asset Management (TAM) Business Model in mind. Banning needs $75,000 to replace a 2010 Ford E-450.

PROJECT SCHEDULE (if existing project in FTIP, indicate original start date and new completion date):
Specs drawn: Issue Purchase Order July 2018
Order: September 2018
Delivery: June 2019

PROJECT FUNDING SOURCES (REQUESTED):
STA Funds $75,000

PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE INCLUDING PROJECTS APPROVED BUT NOT YET ORDERED (INCLUDE FTA GRANT #, FTIP ID # AND RCTC’S SRTP CAPITAL GRANT #)

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>FTIP ID #</th>
<th>RCTC/SRTP Project #</th>
<th>Description</th>
<th>Unexpended balance (as of 6/30/17)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>TOTAL</td>
</tr>
</tbody>
</table>
Table 5.2 – Capital Project Justification

PROJECT NUMBER: (If existing project in FTIP, indicate FTIP ID number)
SRTP Project No 20-01: FTIP No:

PROJECT NAME: ITS Transit and Paratransit Real Time Passenger Information

PROJECT DESCRIPTION: (For Bus Purchase projects, indicate fuel type)

$50,000 is being requested for the 3rd Phase of the Banning Pass Transit Intelligent Transportation Scheduling System (ITS), which is the “passenger amenity” section of the project. This will include technology at every bus stop that will allow passengers to have access to bus arrival time. Furthermore, this will include electronic information displays at certain time points that will provide system wide real time information. These signs, including solar equipment, are about $5,000 per unit including installation and set-up. The entire passenger amenity portion of the project will be implemented over 2 years and conclude during FY 2020, which includes a final $50,000 in STA capital during that fiscal year.

PROJECT JUSTIFICATION:

Phase 2 (FY 19) and Phase 3 (FY 20) will conclude the Banning Pass Transit ITS project. These phases include important real time passenger information systems. ITS and Passenger Information Systems have made tremendous strides in terms of functionality, integration and scalability. Banning will benefit from the industry having vendors that respond to all relevant RFPs, those that focus on bigger transit systems, and others whose business model is specifically designed for smaller systems such as Banning. Banning Pass Transit has the benefit of going “from nothing” to an ITS system that will be a perennial SRTP project request. The scalability factor will allow Banning to implement what is affordable and prudent to do any given fiscal year, while constantly benefiting from state of the industry enhancements. The specifications for this ITS system will require that the successful proposer(s) “solution(s)” are open interface and can be integrated with other systems as determined necessary (e.g. external client technology such as Beaverton, RTA, or SunLink OR internal clients such as Finance, Payroll, Maintenance, Police or Public Works). Furthermore, the City of Banning will oversee the installation and maintenance of these systems with the FTA Transit Asset Management Business Model in mind. This will ensure meeting expectations as the City of Banning may choose to look at Federal funding options in the future, such as $310.

PROJECT SCHEDULE: (If existing project in FTIP, indicate original start date and new completion date)

Specs drawn: July and August 2017 (RFP on Street September – December 2017)
PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE INCLUDING PROJECTS APPROVED BUT NOT YET ORDERED (INCLUDE FTA GRANT #, FTIP ID # AND RRTC'S SRTP CAPITAL GRANT #)

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>FTIP ID #</th>
<th>RRTC/SRTP Project #</th>
<th>Description</th>
<th>Unexpended balance (as of 6/30/17)</th>
</tr>
</thead>
<tbody>
<tr>
<td>09-01</td>
<td></td>
<td></td>
<td>Schedule Holders (Reclassified for ITS Module Implementation)</td>
<td>5,000.00</td>
</tr>
<tr>
<td>09-02</td>
<td></td>
<td></td>
<td>GPS System DAR</td>
<td>25,000.00</td>
</tr>
<tr>
<td>09-03</td>
<td></td>
<td></td>
<td>Paratransit Scheduling Software</td>
<td>25,000.00</td>
</tr>
<tr>
<td>09-04</td>
<td></td>
<td></td>
<td>Computer Equipment</td>
<td>53,246.56</td>
</tr>
<tr>
<td>09-05</td>
<td></td>
<td></td>
<td>Security Cameras on Buses</td>
<td>44,254.56</td>
</tr>
<tr>
<td>09-05</td>
<td></td>
<td></td>
<td>Automated Enunciator &amp; Display Equipment</td>
<td>963.26</td>
</tr>
<tr>
<td>18-01</td>
<td></td>
<td></td>
<td>ITS System</td>
<td>60,000</td>
</tr>
<tr>
<td>18-03</td>
<td></td>
<td></td>
<td>IVR System</td>
<td>15,362</td>
</tr>
<tr>
<td>19-01</td>
<td></td>
<td></td>
<td>Passenger Amenities Real time info</td>
<td>50,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
<td>278,829.37</td>
</tr>
</tbody>
</table>

Table 5.2 – Capital Project Justification

PROJECT NUMBER: If existing project in FTIP, indicate FTIP ID number
SRTP Project No 20-02: FTIP No:

PROJECT NAME: Mini-Bus Replacement

PROJECT DESCRIPTION: (For Bus Purchase projects, indicate fuel type)
$75,000 is being requested to replace an accessible ADA Paratransit Mini-Bus. This will be a CNG vehicle with a 5 Year/100,000 mile useful life.

PROJECT JUSTIFICATION:
Banning Pass Transit has the goal of maintaining a State of Good Repair with the Transit Asset Management (TAM) Business Model in mind. Banning needs $75,000 to replace a 2010 Ford E-450.

PROJECT SCHEDULE (If existing project in FTIP, indicate original start date and new completion date):
Specs drawn: Issue Purchase Order July 2019
Order: September 2019
Delivery: June 2020

PROJECT FUNDING SOURCES (REQUESTED):
STA Funds $75,000

PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE INCLUDING PROJECTS APPROVED BUT NOT YET ORDERED (INCLUDE FTA GRANT #, FTIP ID # AND RRTC'S SRTP CAPITAL GRANT #)

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>FTIP ID #</th>
<th>RRTC/SRTP Project #</th>
<th>Description</th>
<th>Unexpended balance (as of 6/30/17)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

05/09/17
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Moyer on May 9, 2017 at 5:03 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Andrade
Councilmember Franklin
Councilmember Peterson
Councilmember Welch
Mayor Moyer

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: John C. Cotti, Interim City Attorney
Rochelle Clayton, Deputy City Manager/Administrative Services Dir.
Alex Diaz, Police Chief
Fred Mason, Electric Utility Director
Art Vela, Public Works Director
Tim Chavez, Battalion Chief
Philip Southard, Public Information Officer
Patty Nevins, Interim Community Development Director
Ted Shove, Economic Development Manager
Gina Boehm, Customer Service/Billing Manager
Suzanne Cook, Finance Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

The invocation was given by Pastor Mike Moyer, Mountain Avenue Baptist Church.
Councilmember Welch led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

Interim City Attorney Cotti stated that the Council there were six items on the closed session agenda: 1) Existing litigation regarding City of Banning v. Vanir Group of Companies; 2) Conference with legal counsel regarding potential litigation involving the matter of the flume; 3) Conference with legal counsel regarding anticipated litigation Banning Library District’s challenge to the City’s approval of the Rancho San Gorgonio Project; 4) Conference with real property negotiators for the property identified as APN: 532-180-008 and 532-180-009 with Michael Rock and Ted Shove as the designated negotiators; 5) Conference with real property negotiators for property identified as APN: 540-202-001 with Michael Rock and Ted Shove as the designated negotiators; and 6) Conference with labor negotiators pursuant to Government
Code Section 54957.6 to discuss and inform the labor negotiators as to on-going negotiations with employee groups. As to the six items the Council took no reportable actions.

PUBLIC COMMENTS

Ellen Carr, Tender Loving Critters Animal Rescue addressed the Council reporting that yesterday and today Animal Action League had 60 spays and neuters. Hopefully they will be back because yesterday they were having some generator problems but it worked today and hopefully everything will be worked out so that they can come back soon. She reminded everyone to please spay and neuter your pets; it is a once in a lifetime thing. It is very important and she gave an example of why you should do this and why it is important to your animal.

Chris Driessen, president and co-owner of largest marijuana company in the United States called Ogana Brands addressed the Council stating that they have several different products, service over 1,200 dispensaries and have 12 extraction labs in ten states and also distribute CBD products in to eleven countries. It was complete happenstance that he happens to be here in Banning today because he had some appointments in Palm Springs and he understood that there was a meeting today and wanted to come and speak on behalf of the industry and get the Council to consider a few things. Being that they have all these labs in all these different states he has seen this unfold in many of many ways, positive and negative, and he just wanted to share with the Council some of things that are happening in his home community just outside of Denver, Colorado in a little town called Highlands Ranch, Colorado. He said that Douglas County is a county that has a moratorium in his state on dispensaries which has been willfully unsuccessful from Douglas County standpoint. He said he wanted to speak about the benefit of this to a community and not speak on behalf of any one person or one group, he wants to tell you what cannabis can and should be mean to your community and to naysayers he employs them to look at the public data. Obviously, he is going to tell you that cannabis is good and he would imagine that somebody else out here will tell you it is bad; look and see for yourself. There is public data available and an enormous sample-size that speak to a lot of different things but he will stick to Colorado because that is his home state. There are a few benefits that come along when you regulate cannabis and make no mistake, you are either for regulating cannabis or you are for supporting the black market. It is happening in your town now whether you want it to or whether you don’t want it to. It is just whether it is going to be a benefit to your community or not and it is up to you to decide. He said in regards to a few of the things that have happened in Colorado they have contributed $256 million of tax revenue last year to a state that has 5.2 million people and they is seven times the size of Banning and that money goes to build new schools, fight homelessness, fights addiction to harder drugs like opioids. The states that have regulated cannabis have 25% few opioid fatalities than states that don’t. That is not by coincidence and that number is too large to attribute to a margin of error. Their youth consumption rate has actually gone down. Their violent crime rate went down 2% in the first year of legalization. Their homicide rate went down 24%; a quarter less people died in their state the first year of legalization. He said that is because when you take marijuana away from Mexican drug gangs they are forced to go somewhere else to make that revenue which is upwards of 40% of what they do. So again, you are either for regulation or for the black market; there is no in between. You have a proud history that obviously came from a stagecoach route which he read out here that capitalized he believes from Yuma, Arizona to Wilmington, California and those people had an entrepreneurial spirit and those people were leaders who said let’s welcome a new industry.
into our community and let's figure out how to do it right and as he watches this unfold across the country and across the world a few things are going to happen. It is coming here whether you want it to or not. It is going to open all around your neighbors and they are either going to figure out how to make that a benefit to the community, they are going to figure out how to put an excise tax on it, figure out how to make this a net positive for your community, your children or not. Or it is going to go down the street and the revenue that goes along with it but yet you will still have your crime and the economic downfall of not welcoming this into your community. It is very, very difficult anymore to make the opposing viewpoint and certainly there are some. Nobody wants to get our kids more addicted to yet another thing. He said that his wife is an AP Biology teacher, he has a 7, 4 and 3 year old. They are invested in things like childproof packaging, things like precision dosing, and helping the elderly in their community. He would implore the Council to do the same.

Dorothy Familetti-McLean addressed the City Attorney stating that 30 days have passed since they have heard about Vanir and the public still doesn’t know what is going on. We have given them more than enough chances. Are we cutting the strings? Are we doing something so that we can get our property back so that we don’t have a probation department across from the police department?

Interim City Attorney stated that as you know we have filed a lawsuit. That lawsuit seeks to obtain the property back from Vanir Group of Companies. We are pursuing that lawsuit diligently now. We have been approached most recently by Vanir Group of Companies to resolve the lawsuit in a way that would give the City everything in essence that it is asking for in the lawsuit. We have been asked to pursue certain information in regards to that while pursuing the lawsuit and that is currently where we are now.

Donna Adams addressed the Council speaking on behalf of medical marijuana and the changes and the differences it has made in her life. She said that she has many medical issues that cause her a lot of pain and anxiety and other issues. She is currently taking a lot of pharmaceutical medications as well. She doesn’t know if you have noticed the trend lately on television but she has been noticing a lot of commercials for class action suits against pharmaceutical companies. These are not new drugs. These are drugs that are well-established and have been around for a long time and probably some of your family members have been taken them as well so it is really great for her to have an alternative solution for her pain and relief from some of her anxiety. She would appreciate it if the Council would think long and hard of the type of customer, the patient and the needs. She said that her depression makes her a hermit sometimes so she looks forward to having another place to get dressed up and get out of her house and go to and the dispensary does that for her and they share new information, new products. She hopes the Council thinks long and hard about keeping them open here because it has really been a benefit to her life.

Linda Cole, resident addressed the Council speaking on behalf of medical marijuana also. She would like to see the dispensary stay here because she can no longer drive long distances. She has health problems that the medication she was given would make her sicker and this does make it so she doesn’t go up on the Bench and go off the cliff and she sleeps at night and not just crying in pain. She hopes the Council will consider this. The people that work there do inform you of the new products, keep you informed and help you when you are having certain problems so it is very
important. The closest place is Desert Hot Springs or Riverside and she just can’t do that anymore. She would like to see it stay open and she suffered when it was closed.

Patricia Accuvo, resident addressed the Council stating that she agrees with the comments made by the man from Colorado that says the dispensaries should stay open to make it safer for them to get their products. She said that she personally uses it in place of prescription drugs for anxiety or whatever needs that she has and she prefers a safe place close to her home.

Doug Solberg, resident addressed the Council stating that he felt it was such a terrible mistake to vote to close the Banning Airport. He cannot believe that a City Council can just close an airport. He just can’t believe it. He had a friend fly in from Idaho last week landing at the Banning Airport they had a good time and he flew back. That is not the first time. You can put a warehouse out there at the airport and just crowd the freeways with trucks, smoke and smog and have more trains going back and forth.

John Dominguez addressed the Council regarding cannabis stating that he has had major back surgery front and back and told the Council of how this was done and he had 110 staples and he has been on medication for many years. He is tired of the opioids. He takes 360 pills a month and when he smokes he can cut that in half and 240 of that is pain pills and he is supposed to take 8 a day and he would rather smoke a little bit to relax. He said that he has problems sleeping and has sleeping pills, mood stabilizers, muscle relaxers for spasms and cramps that he takes every day. He said that he has an uncle that has Parkinson’s and it helps him a lot. He has a miniature Doberman that has seizures all the time and if you look this has CBD’s in it and that has kept him up to a week to 10 days without seizures. Pets can use this also because they are sick just like people and need treatment. All he is asking the Council is to please don’t close down the facility. It would be awful for him to have to travel to Riverside or Palm Springs to get his medication. He would appreciate the Council consideration of this matter. He said that they are not just young people going around getting high. They use it to medicate and help their pain. Please take a second to think about what you are doing for the people who need their medication. He wouldn’t deny anybody medication and if they need it and it helps, then go with it.

Dionne Boret addressed the Council stating that he wanted to let the Council know that cannabis is harmless. A lot of people put this under the wrong microscope and it is terrible and it is not. He comes over to Banning and patronizes the stores here. He is from Los Angeles but lives in Beaumont and has been here a year now. This is the only place he was able to fine what he needs. He does not use any pain medicine because it doesn’t agree with his stomach so he uses cannabis. He uses it safely and with respect of everybody’s feelings. He agrees that it has to be regulated and he doesn’t want to fall into the hands of kids or anything like that and he is a responsible patient and there are a lot of other responsible patients and people really need this and he chose to use it the alternative way. He is asking the Council to consider it. The people at Strange Therapy are great and very informative. He said that Colorado is really a place you have to study. They are pioneering and reversing the crime. They are giving back to their community. He read the same thing that someone said earlier and it is a fact and Banning can be a pioneer as well.

Pierre addressed the Council stating that he wanted to talk about cannabis and how it has affected him as a young professional and the opportunities it has provided to him. He said every job before the one that he has now he never had the opportunity for a 401K. He has never been able to think
forward financially or just in general so this job that he has now in cannabis has allowed him to really start thinking about his future not only with financial aspects but his health benefits. He receives full health from the company that he works for so he has seen on many levels of his life in a professional setting how cannabis has changed in a positive way. He said he is out here right now because of this job and he wouldn’t have been able to travel and see parts of the world if it wasn’t for this. A lot of people would say in the cannabis industry, in the workplace, you may feel like there is sloppiness and not a lot of professionalism but in this job, he has never had more mentorship and the forward thinkers who are in front of him every day having really changed his mentality about how to carry himself, as well as, the people he surrounds himself with. He thinks that Colorado is a great representation of how to regulate and how to be a forward thinker and he hopes that California can follow.

Wendy Crenshaw said that she is here on behalf of cannabis. She thinks the most important thing is to have a safe environment where we have well-educated sales people that can tell us what it is that our needs are for whatever it is that is ailing us. She said she was walking across the street and hit by a drunk driver so she suffers from PTSD, high anxiety. Like everybody else here you are going to notice whoever takes prescription drugs are trying to get off of those prescription drugs with their many side effects, the drowsiness, and the nausea. This is something that is healthy that God created, it came from the earth. No man is touching it, not a chemical in her body that is going to sit there and have side effects in the long run that no really knows at this point what it is. Cannabis is safe and it has been around for years. She urged the Council to sit here and take note of the sales people that are at the storefront. Like she said they are knowledgeable, they are trained, they are very well-educated for somebody who is going to be able to help her with anxiety issues of getting into a car where she is going to have a panic attack. She urged the Council Members to take a serious note about keeping the storefront open for their safety. There are security guards there to make sure that no shenanigans take place so it is a very good decision for the City to take note of Colorado. What a great opportunity the City does have and she would hate to see it slip by Banning’s fingers.

Ryan Smith addressed the Council stating that she lives in Yucaipa but works in Banning and is here to speak on behalf of cannabis. She would be here all night if she told the Council the things that she is diagnosed with mentally and physically. She went through menopause at the age of 32, last year she had a mild heart attack and if it wasn’t for THC, CBD, CNB her body would not have been able to fight off the heart attack at the age of 37; her family would have been at a funeral. She suffers from major depression disorder, anxiety, massive panic attacks, pains and seizures which she has within her body that take her out to where she literally passes out. To where her friends are freaking out and having to call 911 because she is passed out from her pain. The only thing that has been able to help her is THC and CBD. She fought to not have to be on dialysis because of her heart attack she could not go on steroids. She fought and fought with Medical to get on this medication. It was $12.00 a pill and she was taking six and now she takes just one a day because she was given the opportunity to see what cannabis actually does. Like all the 42 medications that she has been prescribed this year she did her research. THC does not make her nauseous, it doesn’t make her gain weight. THC got her out of her bed, helped cure her agoraphobia, and she was able to get herself to the gym every day. She did not sit on the couch and watch television, she is not on disability and she actually works for a bank and it is all because of THC. Now, don’t get her wrong, she does love delivery services but Strange Therapy Solutions is one of the places she loves and enjoys going to. They explain their cannabis to you. They ask you what do you need help with and
they can steer you in the right direction. They explain the different types of THC and what the benefits are and she feels safe there. They have locks and security guards and it is across the street from a church. The only other place she can go is down off of Prospect Avenue, off of Hospitality Lane, where you have creepers walking all around and she is supposed to feel safe going there so if you take this away, you will see a lot of people leave this town because this is one thing that people need in this town and the money that you will benefit from will skyrocket.

Steve, local resident and businessman in Banning addressed the Council stating that he is a cannabis patient. You know that this is coming into effect. Cannabis is now legal in our state and legal in most of our towns. All you need to do is open your eyes and make a plan for it. You will benefit from it. The town will retain the base that it has now and there are a lot of great people in this town and a lot of them are cannabis users and a lot of you know some of these people. Do you want to see them leave your town for another town? Palm Springs is wide open right now. Some of the high desert towns are open to allowing this medicine for the people. Banning is right on the tail end of it and he thinks that the City should really open your doors to it. Strange Therapy Solutions he thinks is the only provider in this town at this point and have been here off and on for a couple of years and have created no problems. They do have a very safe atmosphere for their patients and are very professional. He has been to many dispensaries and the only one that he keeps going to is Strange Therapy Solutions. You need to make a decision and whether you choose them or somebody else in this town to provide for the patients who need it. It is not fair that you don’t offer it. If you need medicine, you expect it to be here in this town. If you want to go to the hospital, if that is your choice, you have a hospital to go to. The people who made a choice for cannabis they need somewhere also. Listen to your patients, your constituents they are important to you and their lives are at stake.

Dwight Berry, resident addressed the Council stating that he really thinks that the Council should keep Strange Therapy Solutions open. There are a lot of different places where people can go to get their medicine but it is right here, close to home and a lot of people have injuries, long term medical histories and Strange Therapy Solutions is helping everybody. If you take it away, there is not much that they can do and not too much anybody can do but they are urging and begging the Council to keep it here in Banning.

Jerry Westholder, resident addressed the Council stating that we need a forensic audit in the utility company. We have people overpaying for their electric bills, we have people not affording electric bills, we have people who have been over-charged and it is getting ridiculous. We have got to get a forensic audit in the electric company. We have to know what is going on there and we have to get these rates lowered.

Chief Tim Chavez addressed the Council reminding everybody that the governor has declared this week “Wildfire Awareness Week”, May 5th through the 12th and also to advertise that they have a phone app design called “Ready for Wildfire” that is very useful and it gives you many suggestions on how to prepare your home and your yard for a wildfire occurrence. They had a 1500 acre fire in the Moreno Valley area a couple of weekends ago that luckily didn’t burnup any houses but with the rain that we have had and the vegetation we know fires are coming.

Inge Schuler, resident addressed the Council thanking everybody for the engagement of Lucy Jones. This was quite a treat and she understands that it was taped and so we can probably dispense the
video at some time when we clear the copy write with Mrs. Jones but it was absolutely stunning to hear her report and we could have probably listened to her for several more hours.

CORRESPONDENCE

City Clerk said that she had some correspondence that was sent in by Ed Miller to be read by Councilmember Peterson.

City Attorney said technically the City Clerk reads all emails. It is up to the Council to allow a letter to be read by a Councilmember and it is certainly something that is within the Council discretion.

Mayor Moyer said our procedures generally call for the City Clerk to read and he thinks we should follow the general procedures.

City Clerk read the letter from Ed Miller (attached exhibit “A”) regarding the City Manager unacceptable behavior.

ANNOUNCEMENTS/REPORTS

City Council

Councilmember Franklin –

- In regards to Western Riverside Council of Governments (WRCOG) they had their meeting last week and several items did not pertain to our City because we do own our own electric utility but they did present the budget which was balanced and presented the audit which found that this was the third year in a row that there were no findings for the agency. Also the General Assembly which is representatives from all cities being invited on June 22nd and Former Defense Secretary Robert Gates will be the keynote speaker. The event will be held at Morongo and if you are interested in attending you can contact WRCOG to get tickets and they are also available on the internet.

- Thank you to Inge Schuler for mentioning the Expo which was held last Saturday. They did have four speakers and everything worked well except for the weather. It was a little windy and they thinks that it did impact the audience but believe that those people that did attend came because they really had an interest in finding out about emergency preparedness. She thanked all the people who came out and staff. She said that Phil Southard, Chief Diaz, Heidi Meraz, Sonja De La Fuente, and Ana Sandoval from our staff were the planning committee and they also had several departments that participated to make sure that we had a good event. They will have a final report once they have their wrap-up meeting.

- The school district has a student from Banning High School that was selected to participate in the Macy’s Day Parade this year. She is one of 2,500 students that applied and her name is Kaylan Douglas and we need to wish her well because this is something that is very unusual for one our students to be able to participate. She believes this is the first time that we have had a student participate.

- Thanks to Heidi Meraz and her committee for working on the Volunteer Dinner that was held on Saturday. Everybody that went had a good time and very good compliments about it.
• They did have their Healthy City Committee Meeting and will have another meeting again this month. They are focusing on having a community meeting in July and the tentative date is July 13th and once she has more specifics she will share that information. She said that she and Councilmember Andrade are on that committee so they will let everyone know more information as soon as they finalize the details.

• She had the opportunity as a Policy Committee Member to participate in a conference held last week by the Southern California Association of Governments. They had two and half days of information on various topics and the couple that she really wanted to talk about were: 1) they talked about housing and said that housing is not what it used to be and we shouldn’t talk about affordable housing, we should talk about housing that is affordable because when you look across the state what may be affordable in one area may not be affordable in another. When we talk about housing nobody can really afford it no matter where you live so they talked about focusing on housing that is not only affordable but to look at the number of empty bedrooms that we have in each community every night and to look at how we address where we want our people to live and not only looking at people that are maybe low income because it affects people at all levels but to look at housing for our first responders because we want them in our cities as well as our seniors and our veterans. The housing we should look for would be for people who are in the $50,000 dollar range of income. Our city’s median income now is at $41,000 so it is going up but we do want to look at when we have developers coming in to ask them for amenities such as community gardens, after school activities, and possibly even scholarships for the resident students because we want to keep our young people in our community, and we need to make sure that when we are getting some of the social media that is involved and some of the things that are happening to make sure that the information that is put out on social media is correct because many times it is not; and 2) another area is Future Workforce and they spent a good half a day talking about what is coming in the future and a lot of people think in terms of what was in the past but we to think in terms of what we know now or what we think is going to happen in two to three years but when we talk about our workforce what it would be in ten to twenty years because the work skills are changing every two years. The guest speaker was the CEO of ESRI located in Redlands and one of the things that he talked about is how we can look for trends in our community based on mapping and GIS and this is something that they can actually help us with as we plan for our city and we need to look at our business plan and how we are planning for what we want our city to look like twenty to thirty years from now. They talked about a lot of different things and she will be sharing that information with the staff because there are a lot of things for our city to consider. They gave them a local profile that really goes through the demographics for our city. There is a lot of information out there about things that we need to look at as we want our city to developer for the future and to do it in a way that we are planning for our children’s children that will be here.

Councilmember Peterson –
• He thanked Heidi Meraz for that wonderful recognition dinner on Saturday and the entertainment; that guy was awesome.

Councilmember Andrade –
• She thanked Heidi Meraz for the event and it was absolutely fabulous and she heard nothing but positive comments. She thanked everybody who came up and spoke their mind and the
passion that they have. She thinks that it is no secret that she has always been for cannabis. She thanked the gentleman from Colorado because he is absolutely correct in his statements. Maybe we can bring it back at a future meeting to discuss.

Mayor Moyer –
- You might have seen the advertising for the COPS and Clergy game that was supposed to be held this Friday. Due to some scheduling problems with the school and so forth it has been postponed but will be re-announced shortly.
- The Finance Committee which consists of City Treasurer John McQuown, Don Peterson and himself met and discussed the purchasing agreement that was put back to committee at the last meeting to work out some things and that will be coming back soon. The other thing that they have discussed and have recommended and will be coming to the Council soon is not a total forensic audit but a cash audit and an energy audit on the electric utility.

APPOINTMENTS

1. Planning Commission Appointments
   (Staff Report – Patty Nevins, Interim Community Development Director)

Interim Director Nevins gave the staff report on this item as contained in the agenda packet.

Motion Peterson/Welch to appoint Eric Joseph Shaw and Inge Schuler to the Planning Commission. Mayor Moyer opened the item for public comment; there were none. Motion carried with Councilmember Franklin voting no.

Motion Andrade/Franklin to keep the eligibility list on file for a year and if anybody falls out the next one should automatically be seated without re-applying. She thinks it is a hardship for the City to wait for such a long time in order to fly the position and try to get people to apply until we finally occupy the seat. So if anybody cannot fulfill their duty until their allotted time, she thinks the next person in line from this eligibility list of the applicants should automatically fill that seat. Mayor Moyer opened the item for public comments; there were none. Motion carried, all in favor.

CONSENT ITEMS

Consent Item No. 6 was pulled for discussion.

1. Approval of Minutes – Special Meeting – 03/03/17 (Closed)

Recommendation: That the minutes of the special meeting of March 3, 2017 be approved.

2. Approval of Minutes – Special Meeting – 04/18/17

Recommendation: That the minutes of the special meeting of April 18, 2017 be approved.

3. Approval of Minutes – Special Meeting – 04/25/17 (Workshop)
Recommendation: That the minutes of the special meeting of April 25, 2017 be approved.

4. Approval of Minutes – Special Meeting – 04/25/17 (Closed)

Recommendation: That the minutes of the special meeting of April 25, 2017 be approved.

5. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of March 2017

Recommendation: That the City Council review and ratify the warrants for period ending March 31, 2017, per the California Government Code 37208.

Motion Peterson/Welch that Consent Items 1 through 5 be approved. Mayor Moyer opened the item for public comments; there were none. Motion carried, all in favor.

6. Resolution 2017-49, Approving an Amendment to the Contract with Kronick, Moskovitz, Tiedemann & Girard in the Amount of $18,562.01.

Councilmember Andrade said she needed an explanation of this item because she does recall in our previous meetings that this item was indeed already denied and now it is back on the consent calendar and she thinks originally it was on the consent calendar and somebody pulled it as well because it exceeded the amount of the contract and then we were told that supposedly the development company is going to pay for it and now it is back.

Deputy City Manager said that is correct. The developer, Diversified Pacific from Rancho San Gorgonio, LLC paid for this quite some time ago. The City acts as a pass through to pay this. We have been sitting with the money in our deposit account for quite some time. It was sent back and asked for them to pay directly, that was the request from Council last time asking the developer to pay directly. However, the contract was between the City and the legal firm so they sent it back and asked the City to pay it. It went to the Finance Committee for discussion and it was supported to approve based on the fact that the developer has reviewed all of the invoices and agrees to actually pay it but not directly.

Councilmember Andrade said so this is not coming from our General Fund or anything. This is actually money paid to us by the developer for us to pay the excess fee. So it is different. Deputy City Manager said that was correct.

Mayor Moyer opened the item for public comments; there were none.

Motion Andrade/Welch to approve Consent Item No. 6, adopting Resolution 2017-49, approving an amendment to the contract with Kronick, Moskovitz, Tiedemann & Girard in the amount of $18,562.01, for the legal services provided to City in connection with the preparation of a development agreement for the Rancho San Gorgonio Specific Plan development; and authorize the City Manager to execute the amendment. Motion carried, with Councilmember Peterson voting no.

PUBLIC HEARINGS
1. Discuss and Consider Municipal Code Amendments to Various Sections of the Zoning Ordinance (Title 17 of the Banning Municipal Code) to Provide Consistency and Clarification Within the Text.
(Staff Report – Patty Nevins, Interim Community Development Director)

Interim Director Nevins gave the staff report on this item as contained in the agenda packet.

Councilmember Peterson said that he had already talked with Ms. Nevins and she already cleared up a couple of his questions regarding this ordinance. The last one is going to be the “grandfather” clause. Are there any homes or residences out there that already have this existing non-compliance that redoing the zoning ordinance is going to affect.

Interim Director Nevins said yes, almost all of these would come up because at one point or another somebody has come to the counter and had a lot that didn’t meet the size or a single-family home.

Interim Director Nevins asked Councilmember Peterson if he had a question with one specific. Councilmember Peterson said no, not one specific but if somebody all of sudden didn’t know about this change and they come in to pull a permit for a new roof and all of sudden you discover that they are out of compliance with lot size and now you are not going to issue them the permit because they are not supposed to be there and we have seen this occur over and over throughout the city. So he wants to make sure that these people, if we are going to change this, that resident’s that own a lot that is less than 8,712 square feet, if it is less than that but they already have two homes on it, what is going to happen to those people.

Interim Director Nevins said in the case of the medium-density residential lot this would be one where somebody comes in and has a lot that doesn’t qualify for the two units so they would have something less than 8,700 square feet. She said that this one actually came up not too long ago and this is where they said that we would be bringing something back to the Council.

Councilmember Peterson said that there is no provision in here to grandfather anybody.

Interim Director Nevins said that is correct but in this case the City’s nonconforming use regulations would say that it doesn’t actually affect this one particular. This one says that if you only qualify for one unit, you would think you could develop one unit. But if you go to the zoning code, one unit being a single-family home, would require a conditional use permit meaning that they would have to pay a fee of $5,000 to $7,000. She doesn’t recall but basically they have noted a couple of things very recently and started making note of things that come to the counter and that are problematic. In this case this would allow them to go ahead and build that single-family home without coming to the Planning Commission and paying the fee and going through the application process for a conditional use permit. It would make it a permitted use.

Councilmember Peterson said that is for a new person. Somebody that is on a lot that is smaller and applied for a conditional use permit to build a new home.
Interim Director Nevins said anybody would not have to now so whether it was an existing home or a new home it would be allowed to stay. She thinks that is what he is referring to and they have had some issues and will be coming back with additional information is where we have people come in with properties that have gone vacant so our zoning code right now says that if you have a nonconforming structure or a nonconforming use that was legally established, you could continue that and that is what some people call the “grandfather” clause. If however, your use or structure whatever discontinues for a period of six months or more, you are no longer entitled to that kind of grandfather status. She said that they do have a couple of different scenarios involving that and they are working on those now to bring back before the Council. The idea behind a nonconforming use or structure status is that you phase out nonconforming uses over time. Staff will be coming back to Council with some of those.

Mayor Moyer opened the public hearing for comments from the public.

Inge Schuler said that she had some of the same concerns on page 122 of the agenda packet with this comment about vacant and then these various square footages and this time it works and this time it doesn’t. It is really not very clearly expressed what exactly would affect someone that is concerned with a problem that Councilmember Peterson brought up. She knows that we have had problems for instance, Heidi Meraz’s property that was changed without notifying the individuals affected and the ones across the street, on the other side of the street, the Medvedeff’s, they are still zoned wrong and cannot do anything to their properties because at that time they were not even notified that their property would be rezoned. She said that it is so convoluted in its statement that actually you could interpret that one way or the other when somebody comes in and says you are plumb out of luck. This vacancy issue, for instance, Ms. Nevins brought up that if somebody has the utility’s disconnected and because of some changes in plans and delays and the six months has passed, suddenly they are out of compliance and cannot get anything done. It seems to her that this it almost has the smell that it is that somebody’s ox is being gored. She would like to see the verbiage re-stated that it is very clear what happens when to whom and how this is going to be handled and that way it is clear and not somebody waking up one morning and wants to have a new roof and can’t get it done or can’t get insurance.

Don Smith said he has a question that he doesn’t really expect an answer to but just wanted the Council to think about it in the future. We had a Sign Ad Hoc and part of this change is the sign ordinance. Did anybody seek the input of the Sign Ad Hoc? Did anybody send this to the Chamber of Commerce to ask what they thought and how would it affect businesses? The same thing with the changes to the real estate rules. Did anybody send it to the Board of Realtors to see if they had any ideas? He said the medium density houses there are hundreds of single-family residences in what is now zoned medium density residences where there is only one there in Banning. So any ordinance that would make it easier for those people in a fire or when they want to improve their property for them to be able to have the same rights as other single-family residences is a good idea. In fact, it would be difficult for them to get insurance or financing if the lender actually knew that a burn letter would be issued and they wouldn’t be able to rebuild if it was substantially damaged. So this ordinance in that regard helps everybody that has a single-family residence in a medium density zone. He said he doesn’t understand the change in the sign ordinance. You can’t have any sign we use to say above the roof line, now it says above the eaves line. Some buildings have more than one eave line so is it the highest eave line, the lowest eave line. As he thinks of all the signs along the businesses in town we have a lot of signs
that are on either roofs or facades and he doesn’t know where a good other place would be to put those signs that those businesses would actually be able to attract customers. That is why he asked if they talked to the sign people about this because that part of this doesn’t sound like a good idea to him.

Mayor Moyer returned the item to the Council for discussion.

Councilmember Franklin said a couple of these came out and for clarification her understanding was the idea of changing the zoning for medium density was to change it from conditional use to permitted which is better because it is less restrictive than what it was before.

Interim Director Nevins said yes, so it sounds like her explanation of how many units you can qualify and allow is confusing to people. It doesn’t affect the tax which was just to make single-family homes a permitted use rather than a conditional use in the medium density zone.

Councilmember Franklin said so it is not restricting anything that people have already. Interim Director Nevins said correct, it is actually more permissive this way.

Councilmember Franklin said it sounds like maybe when it is written, it will be so people will be able to understand it. Interim Director Nevins said maybe the text and the explanation is the part that was confusing. The only thing that is being amended is if you look at the row that was given out of the zoning code, there was a row that shows each of the residential zones and there is a change or a strikeout and an underline from conditionally permitted to permitted use that is the only change.

Councilmember Franklin said the question that was asked about the eaves that was a good question and can she address that.

Interim Director Nevins said that is a clarification. The zoning code already reads this way. There is already a section in the code that says you can’t put a sign on a roof so there may be many nonconforming signs out there. This is just a clarification for consistency. Having said that she wasn’t aware that there was a Sign Ad Hoc Committee so she apologizes for not seeking input and they can certainly do that if there is a wish to have someone go back over this.

Councilmember Peterson said he has to concur. When he was reading the roof to eave he thought just going to lower the sign from roof to eave but he did not consider what Don Smith brought up and that there are several eaves. There could be these hangovers that has one set of eaves, then a roof eave and then another eave and which eave are we going to be talking about and he knows that is throwing all kinds of craziness out there but it is a question.

Interim Director Nevins said it would be any eave so she can go look for the definition or you could simply pull that one section and bring it back at a later date after giving the Council a better explanation and talking to the Ad Hoc Sign Committee as well.

There was Council and staff discussion in soliciting additional input from the Chamber and the realtors on this subject.
Motion Peterson/Welch to continue this item pending the opinion from the Ad Hoc Committee on the signage and the nonconforming structures. Motion carried, all in favor.

REPORTS OF OFFICERS

1. Discuss and Consider Adopting Resolution 2017-32, Approving the Expenditure of Funds in the Amount of $118,891 for the Purchase of Electrical Distribution Equipment to Accommodate 4 kV to 12 kV System Voltage Conversion at the Alola and Airport Substations.
   (Staff Report – Fred Mason, Electric Utility Director)

Director Mason gave the report on this item as contained in the agenda packet.

Councilmember Franklin said on page 148 where you were only able to get one bid for the switch, how are you able to know that is a good price.

Director Mason said in this situation this particular vendor is the prime distributor for those switches and that is why no one bids because they know they are the lowest price so they don’t even waste their time bidding on it. We know we got the best price because they are the prime distributor.

Mayor Moyer opened the item for public comment.

Jerry Westholder, resident said he understands that this is a necessity for our city however he would like to go back to previous comments that he made in City Council regarding any purchases not be made from our electric department till we have had a forensic audit. Not just a cash audit, not just the amount of kilowatt hours but a full forensic audit. Until we know exactly what we have in the utility company and our citizens need relief we need to forego any expenditures and any other purchases until we take care of the people. It is the people’s money and we need to take care of the people.

Motion Franklin/Peterson that the City Council: 1) Adopt Resolution 2017-32, Approving expenditures in the amount of $118,891 to fund the purchase of electric distribution equipment to accommodate 4 kV to 12 kV system voltage conversion at the Alola and Airport Substations; and 2) Authorizing the City Manager or his designee to make the necessary budget adjustments, appropriations, and transfers related to the project. Motion carried, all in favor.

2. Discuss and Consider Adopting Resolution 2017-45, Approving the Renewal of the Landscape Maintenance Contract for Landscape Maintenance District No. 1 with Artistic Maintenance, Inc. of Lake Forest, California for Fiscal Year 2017/2018 in the Amount of $76,440.
   (Staff Report – Art Vela, Public Works Director)

Councilmember Peterson recused himself from discussion of this item because of a conflict of interest. He has property in that area.
Director Vela gave the staff report on this item as contained in the agenda packet.

Mayor Moyer opened the item for public comments; there were none.

Motion Welch/Franklin to adopt Resolution 2017-45, Approving the Renewal of the Landscape Maintenance Contract for Landscape Maintenance District 1 with Artistic Maintenance, Inc., of Lake Forest, California for Fiscal Year 2017/2018 in the amount of $76,440. Motion carried, all in favor with Councilmember Peterson not voting.

Councilmember Peterson returned to the dais at this time.

3. Discuss and Consider Adopting Resolution 2017-47, Approving the Second Amendment to the Landscape Maintenance Services Agreement for City Facilities with Artistic Maintenance, Inc. of Lake Forest, California for Fiscal Year 2017/2018 in the Amount of $46,180. 
(Staff Report – Art Vela, Public Works Director)

Director Vela gave the staff report on this item as contained in the agenda packet.

Councilmember Peterson said on this contract can we add things to it as a separate fee if need be. Director Vela said that they could. They could develop a scope and ask the contractor to give us a proposal.

Councilmember Peterson said for instance those hodge-podge little parking bumper things in the community center parking lot. Could they take a sledgehammer and knock them out.

Director Vela said that they actually have a landscape design project that will result in putting trees and other landscape features in those bumpers.

There were further Council and staff dialogue in regards to irrigation to those areas and possibly changing the contact to replace like kind and quality of plants with the use of drought tolerant plants if they need to be replaced.

Mayor Moyer opened the item for public comments; there were none.

Motion Andrade/Peterson to adopt Resolution 2017-47, approving the second amendment to the Landscape Maintenance Services Agreement for City Facilities with Artistic Maintenance, Inc., of Lake Forest, California for Fiscal Year 2017/2018 in the amount of $46,180. Motion carried, all in favor.

(Staff Report – Rochelle Clayton, Deputy City Manager)

Deputy City Manager gave the staff report on this item as contained in the agenda packet.
Councilmember Peterson asked in regards excessive mileage and what does that mean. Deputy City Manager said she didn’t have the actual mileage available to her but these vehicles are nearly over 15 years plus. He asked if they had over 100,000 miles and Ms. Clayton said absolutely.

There was some further Council and staff dialogue about the trucks in regards to longevity 4-cylinder versus the 6-cylinder, having the new Fleet Manager look at this item and give his input, and would also like the mileage on the vehicles.

**Motion Peterson/Andrade to continue this item seeking a little more information.** Mayor Moyer opened the item for public comment; there were none. **Motion carried, all in favor.**

5. **Banning Business Center Update**  
   (Staff Report – Alejandro Diaz, Chief of Police)

Chief Diaz gave the staff report on this item as contained in the agenda packet.

**Report received and staff will continue with the receivership process.**

6. **Clearing of Oleander Bushes from Caltrans Right of Way**  
   (Staff Report – Rochelle Clayton, Deputy City Manager)

Deputy City Manager gave the staff report on this item as contained in the agenda packet.

Mayor Moyer said that he has been in contact with our City Attorney because somebody was considering this a gift of public funds which is not acceptable obviously so he asked him if this particular issue was in fact, in his opinion, a gift of public funds. At this time the Mayor read the response by the City Attorney for the benefit of those in audience and listening (attached Exhibit “B”).

City Attorney said that he would add now upon review of the staff report which he didn’t have the benefit of at the time that he wrote that letter it appears that Diamond Hills has reimbursed the entire amount.

Councilmember Peterson said before we get to the gift of public funds he would like to go to page 300 of the agenda packet which is a description of the payback. It shows a chipper at $37.85 an hour, a front-end loader at $66.00 an hour, Unit 622 at $25.00; Unit 602 at $25.00; what type of vehicles are these Units.

Director Vela addressed Councilmember Peterson apologizing for not being able to tell him what those vehicles are because he does not have the list but he would assume those are work trucks. He remembers seeing a dump truck out there so he is sure one of those Units is a dump truck but he is pretty sure the other are just work trucks.

Councilmember Peterson said his point is that Rochelle said that we got industry rental rates and how many different industry rental places i.e. United Rentals, ABC Rentals, Able Rentals whomever did we contact in order to get these figures. Director Vela said that he does not know.
Deputy City Manager said that she would need to do the research on exactly who pulled all these numbers to get the industry standards.

Councilmember Peterson said did somebody just pick the numbers and threw them there because he doesn't know how you can pick a number for an hourly rate on Unit 602. What is the comparison to Unit 602 at an hourly rate? This whole thing is unacceptable. This needs to have an itemized list of each vehicle of what it is so that we can determine what the hourly rate is and then through the industry standards you need to call United Rental or somebody and find out what a loader rents for or what the chipper rents for or what a five ton dump truck rents for. Nobody can determine what this is. So this is an unacceptable rental rate.

Director Vela said to add on some of these vehicles it is going to be difficult to do and he is saying that because if we have a 1998 Top Kick Dump Truck, you are not going to be able to go out and rent one of those.

Councilmember Peterson said he doesn't think it is a 1998 Dump Truck, it is just a five ton dump truck. It doesn't matter if it is a 1998, 2008 or 2018. If it is a five ton dump truck and it is hauling that trash to the dump, it is a five ton dump truck. It is the same with the loader. He thinks this is not an acceptable itemized list of rental rates and then there is no comparison and you should at least provide us with at least two or three rental yard rates.

Mayor Moyer said he doesn't know if he totally disagrees with that last statement. If when we are doing an engineer's estimate for a job and we know that we charge ourselves $37.25 to use the chipper and if we are using all of our own equipment, then to him that is satisfactory if that is what we are ourselves, then that is the rental rate. If you go to a rental yard, they might charge $50.00 for what we are charging ourselves $37.00 because we own it. He would have like to have known what Unit 622 was but again, how much staff time are we going to take up. They have paid the bill.

Councilmember Peterson asked Ms. Clayton if she will get that information and come back with what these units are and at least two estimates from two rental yards. She said yes.

Councilmember Peterson said since the date of the brush clearing have you had any further conversation with Caltrans either written, by phone, email. Director Vela said that since the clearing no.

Councilmember Peterson said that in the Press Enterprise it was written that they were going to investigate what occurred and that had they known what was being done with the permit that they would have not issued the permit.

Director Vela said that he read that also and that was a little hard to read only because it was pretty clear on what we were going to do and what the scope was going to include during the preconstruction meeting with the Caltrans representative prior to going out there and doing that work. We clearly explained to him exactly what we were going to do.

Councilmember Andrade left the meeting at 6:50 p.m. because she was feeling ill.
Councilmember Peterson said on the first one when you went in and you said you were going to remove the oleanders and then Caltrans came back and said then you need to do soil sampling, and erosion testing and he thought what a can of worms you opened and he thinks that is what you said to yourself so you went back in and said you were going to trim. You never said anything about removal and you still removed and when Caltrans came back with you they said you were to trim according to their trimming regulations.

Director Vela said he added, “Or to the approval of the Caltrans representative”. Councilmember Peterson said that is correct. So did he go out there and show you because per the trimming regulations it said when you trim a tree an arborist or an arborist trainee must be on site. So did you have an arborist or arborist trainee?

Director Vela said no, they did not have one but the Caltrans representative that was part of their preconstruction meeting was out there several times and he believes there was a second inspector that showed up. They were out there throughout the process. He said that he has done many projects with Caltrans and when they see something they don’t like, they don’t hesitate to shut you down. Caltrans was out there during the process and the City didn’t get any write-ups or any expressed concerns from Caltrans and so they continued forward.

Councilmember Peterson said it is clear, the City obtained a fee-exempt permit from Caltrans to do landscape maintenance on the freeway right-of-way by Diamond Hills. Such a permit typically is for weed abatement or to trim dead stress tree branches for safety and aesthetic reasons says Joyce Snyder, the Caltrans PIO. She also noted such a permit is not for trimming trees for visibility purposes to benefit private business and billboard companies. So somewhere along here somebody issued the permit mistakenly perhaps. It also says that Caltrans District 8 Chief for Public and Media Affairs wrote in an email Thursday that the permit would not have been approved under the visibility parameters. Caltrans will investigate the work that was completed and investigate the purpose of the permit. So that is why he was wondering if has heard anything yet. Director Vela said that he has not heard anything yet.

Councilmember Peterson said the second thing is what legal authority does the City Manager have under our Municipal Code and City ordinances to rent, loan or give City employees and equipment to work for a private business.

Interim City Attorney said that he would not have authority to give equipment to a private business. In this case there was a permit that was applied for through Caltrans at the request of a business owner to use our crews. It was fully reimbursed work and he doesn’t see any legal impediment to the work being done. Whether it was done in compliance with Caltrans standards he cannot speak to. He suspects that we might get a letter from Caltrans in the near future and deal with that if it comes.

Councilmember Peterson asked if there was a written contract or agreement before the start of the work. Interim City Attorney said he has prepared no such agreement and he hasn’t seen one.

Councilmember Peterson asked if there was an agreed upon price for the labor and the cost of the equipment prior to the start of work.
Deputy City Manager said not to her knowledge. The calculation of how much labor went into it was not done until the completion of the work so there wasn’t a cost estimate based on not knowing the amount of labor it would take.

Councilmember Peterson said this is where it kind of becomes convoluted. There was no written contract or agreement, there was no predetermined itemized fees for the services and equipment. This act had to be a gift of public funds. The employees and equipment were furnished without a contract and without a negotiated price. All billings were after the fact and the City Manager displayed resistance when mentioning the rental rates of the equipment. He gave an example. If a person walks into a store and steals a loaf of bread and walks out of the store and then he decides to return the loaf of bread and apologizes for the act. Is there still a theft? Interim City Attorney said yes. Councilmember Peterson said absolutely and the intent was to deprive the owner of the bread and a change of heart does not erase the crime. So here we have is the same thing. What we have is somebody that entered into a verbal agreement which was against the 2015/2016 Grand Jury Report where they said that the City is to cease and desist immediately with the backdoor golden handshake deals. This City replied in writing that said we will comply with the Grand Jury and we agree and Art Welch signed it because he was the Mayor. So with that it goes now that we have entered into a golden handshake deal, given away employees, we didn’t determine what we were going to charge, and so now here we are. Because the act was observed, investigated and reported by local citizens and the media this City Manager realized that gift of public funds had been discovered. It was then and only then that he decided to invoice the dealership for the labor cost only, labor cost only however, when confronted with the rental cost of the City’s equipment, the City Manager argued the billing of the equipment stating that the City owns the equipment and it is old. At this time he read Section 8314 of the Government Code (attached Exhibit “C”). So if there was not a written agreement, if there was not a predetermined set of fees, nothing was done in advance, he argues the point of recouping money for the use of rental equipment how do you explain that the person now wants to return the loaf of bread.

Interim City Attorney said that he believes the section that Councilmember Peterson cited deals with the use of public funds for campaign activities.

Councilmember Peterson said no and he read it again regarding campaign activity (Attached Exhibit “C”). This is the use of gifting of public funds.

Interim City Attorney said that the law prohibits the use of public funds for private purposes. A court would analyze that by looking at the public benefit conferred and looking at the private benefit gained. In this situation and he would note also that there can be an incidental benefit to a private entity. In this situation the amount of tax benefit that is conferred pursuant to agreements between us and Diamond Hills which far exceeds the $7,000 at issue here....

Councilmember Peterson asked the Interim City Attorney if this would be his legal opinion.

Interim City Attorney said that his legal opinion is that a court would likely not view this especially in light of the fact that it has been reimbursed, at least through the numbers that he has seen, would likely not find this a constitutionally impermissible gift of public funds.
Councilmember Peterson said, let's say, the public wouldn't have notice, nobody found out, Gail didn't write a story, Banning Informer didn't write a story, nobody made phone call, took pictures and sent them out and everybody was going nuts and this thing slid through since there was no contract, no agreement, no invoice, nothing, except a Councilmember being an intermediary in negotiating the deal and Michael Rock instrumenting the deal or actually making it happen, do you think a reasonable person would think that the City and the taxpayer was going to reimbursed or was this just going to be swept under the table. He thinks that is the question.

Interim City Attorney said that is a separate issue from the gift of public funds analysis. Arguably whether they paid for this or not a court could find that there was not a gift of public funds even if Diamond Hills didn’t reimburse us a $1.00. If an analysis was performed that there was a substantial benefit gain by future of this. Now whether or not there is a violation of the purchasing ordinance or the contract code he didn’t look at that. He was asked about the gift of public funds issue and he doesn’t believe there was a gift of public funds and he doesn’t believe the court would find a gift of public funds.

Councilmember Peterson asked if there was a violation here. Interim City Attorney said from the information he has seen he doesn’t see a violation of the contract. Councilmember Peterson asked from the information that he just gave is there a violation. Interim City Attorney said if Michael Rock secreted some contract arguably there might be a violation but he doesn’t have any information before him that that occurred.

Mayor Moyer said it is not unusual for a community or a business to do a job like this on time and material and that is exactly what he did. Now, was he wrong? In his opinion he agrees totally in not charging for the equipment, absolutely, he was wrong and he was wrong when he sat here and said it was included in the rates. But are far as him doing a job on time and materials that is a common practice.

Councilmember Peterson ask Mayor Moyer if he knew about this deal. Mayor Moyer said he had no idea until Frank Burgess called him.

Councilmember Peterson asked Councilmember Franklin if she knew about this deal. Councilmember Franklin said she doesn’t know about a lot of things that are done every single day by the City because she expects the City staff to run the City. She doesn’t expect them to ask her or the rest of the Council for them to do what is going to help for the City.

Councilmember Peterson said then this was a deal that Art Welch and the City Manager knew and Art Welch made the statement earlier, “Did we go around the idea of bringing it to Council, probably”. So it was a backdoor deal no matter how you look at it. It was never brought to Council, there was never an agreement, there was never an invoice, there was nothing until after the fact till it came to light and then all of sudden people started scurrying to right the ship because it was leaving.

Mayor Moyer said the City Attorney has already told us in his opinion it is not a gift of public funds. He did not have anything in front of him talking about a contract violation or anything like that. He would suggest that you put your information together, give it to him and let him come back to us and tell us whether there was any violation of contract law or whatever.
Councilmember Peterson asked if the City Attorney can write the Attorney General and get an opinion.

Interim City Attorney said if that is the collective concurrence of the Council he would be happy to do that.

**Motion Peterson that the City Attorney prepare an investigative report and send it to the Attorney General for an opinion. Motion died for lack of a second.**

Councilmember Peterson said so once again we are just going to kill the transparency. Mayor Moyer said no, that is not what he said. If you want to give him the information you have and get a legal opinion from him on whether there is a violation of contract law, go ahead and do it.

Councilmember Peterson said as a citizen he will file a complaint with the police department and we will have the police department investigate it and if they want to kick it over to the District Attorney Office, then that is their choice.

Councilmember Welch said there are two reasons why he just sat here and listened to all of this. One is that the reporter is sitting out here recording this again tonight. The second thing is that he is totally, totally confused. He said that he got asked a question by one of our businesses in town about clearing vegetation that is not on his property but on Caltrans property and he said he didn’t know but will find out. He said he asked the State office, the one he works for, how do we do this. He was told that you have to deal with Caltrans and the business needs to apply. In an effort to do that they were turned down. Caltrans does not, just like the PIO said for Caltrans, do not give permits for private business to cut vegetation on Caltrans property but they would do it when they get around to it. In view of Caltrans and how busy and how much territory District 8 covers that could be a long time. So he came to the City to Art Vela and Michael Rock and asked if there was a way that we could help them get a permit. When they tried to do that the permit was issued to the City of Banning. By the way there is communication from Diamond Hills prior to all of this happening saying that they will cover the cost of this if they could get it done. Other than that he doesn’t think there was a written agreement. So in trying to be good public servant and trying to service our businesses here in town you get hit on the head with an accusation where there was no intent to ever use public funds to get the job done. Now the accusations can be long and hard and heavy. He thinks that they are talking about a very acceptable, although not understandable by all, a very acceptable use of our manpower and our equipment if it is paid for and that is exactly what happened. The Interim City Attorney made a comment about what the worth of all of this is and he happens to know this because it is fact. Not because the oleanders were cut but because this business really means to be something in the city of Banning. In nine months their business has increased 35%.

Councilmember Peterson said it is not about the business. Councilmember Welch said he knows and we keep saying we don’t care about our business. Councilmember Peterson said it is not about the business. It is about the underhanded way that this whole shenanigans occurred.

Councilmember Welch said there was nothing intended to be underhanded, not at all. The total cost of this operation whether we go back and get factual, rental rates that is okay with Diamond
Hills and bill them for it, they will pay for it. There wasn’t one tax dollar spent on this endeavor at all.

Councilmember Peterson addressed Councilmember Welch stating when you said that they applied for the permit and behold it came back made out to the City of Banning. If you look in the packet the entire application for the encroachment permit is there and the encroachment permit was made and filed by Art Vela.

Councilmember Welch said they called and asked if they could apply for a permit and were told no, not a private business could do that and that is when they asked if they could get some help through the City to apply and that is when the permit was issued to the City of Banning. Let’s keep the events and what really the intention was here straight.

Mayor Moyer opened the item for public comments.

Don Smith addressed the Council stating that he thinks the important part of discovering a problem is coming up with a solution so that the problems don’t happen over and over again because history repeats itself. He is little surprised because he has rented out government workers before they tell you what the rate is going to be per hour including the overhead and at least he knows that when he hires out the Riverside County Sheriff’s and he assumes the Banning Police Department also tells you what the rate is per hour which is not remotely what the police officer gets because it has to include the cost of his supervisor, his support staff and his equipment and so they come up with a price that includes all of those things. So when he was told that he had billed our overhead he had assumed that our overhead charge, apparently it is incorrect, also included the cost of the equipment used like it has in other government agencies when he used their employees to provided services which they even charge hourly government agencies because of the budgeting issues. He doesn’t know what our overhead charge includes or how our overhead charge was calculated but we need to have an overhead charge so the next time somebody says we need to use say the police department we have to make sure that we understand what the overhead rate is, how it is calculated and does it in fact include the cost of supplies and wear and tear on equipment. Because if we would have had that policy and procedure in place, we would have known in three seconds how much this really cost and if we develop and procedure and policy this won’t happen again.

Mayor Moyer said it was obvious when we looked at it the last time because the highest person we have on there is $42, so we were not charging for the equipment along with that. That is where he and Councilmember Peterson did agree.

Councilmember Peterson said that there is also going to be future billing. When you look at the encroachment permit and although it says “Fee Paid-Deposit Exempt” and if you look further down it says, “In addition to the fee the permiitee will be billed actual cost for field work”. He doesn’t know what field work is and when it is coming in but he would assume that there is going to be another bill coming in for field work – page 302.

Mayor Moyer said again, this is a discussion item only and we have beat it to death and Councilmember Peterson has already said what he is going to do.
Councilmember Peterson said if the Council doesn’t want transparency and clarity and a legal opinion from the Attorney General, where is the next step. They don’t want the Interim City Attorney to write it and obviously they are trying to suppress it and don’t want no part of it, so where do we go next.

Mayor Moyer said who said suppress it? Councilmember Peterson said well you don’t want to agree to it. Mayor Moyer said they don’t want to go to the Attorney General we have a City Attorney that we pay money that can give you a legal opinion if you give him the facts. Councilmember Peterson said he wanted the Attorney General’s opinion.

Councilmember Franklin said she thinks that we had a good suggestion come from the audience where Mr. Smith suggested we consider a policy and she thinks as we are talking about our purchasing policy that this might be something to be able to add. When you are talking about where we are going with this she looks at not only the time that was spent on the actual event but how much staff time has been spent since then and since there is no benefit of public funds we can go round on this for the next number of days if you want to but she thinks that if you can get the Council to concur at least for the majority as to let’s look at our purchasing policy and let’s this thing be put to bed.

Deputy City Manager added that it would actually be included in the cost allocation plan that is existing currently underway under Willdan. The overhead charge does include many factors including what the current study includes which is the cost of equipment, the cost of the square footage of a building that the employee works in that is being that hourly rate is being calculated; all those factors are built in. She said that she broke down on this last version that the hourly rate to the employee was $24.55 and the overhead added on top of that was $15.67 which is well over 50% so that is above and beyond just benefits there are other factors built in to this overhead charge so that is included. It is a current policy and it is currently being updated and that will be brought back to Council within the next few months.

Mayor Moyer said he was told by Mr. Rock that they would have it next month. We have been waiting on this for two years.

Deputy City Manager said there are three parts to this study. The Cost Allocation Plan is complete and they are doing the final run through with directors tomorrow. They plan on bringing this all back together and the next piece is the full master fee study that they would not start until the cost allocation portion was done. They needed that first before they go into the fee study.

Councilmember Peterson played something from the prior meeting with Councilmember Franklin talking about her talking with the District Director for Caltrans in regards to the brush clearing. He said that for the last two weeks he has tried to get her to give him the name and did she ever come up with a name.

Councilmember Franklin said no we didn’t and she will tell him after he put such a big stink up about it, she is not even looking for his name. Councilmember Peterson said he doesn’t think she ever talked to anybody, you owe the people an apology.
Councilmember Franklin said to staff if there are any more costs that we will make sure that they are billed directly to Diamond Hills, anything we haven’t come up with. Deputy City Manager said yes.

City Clerk read a letter from Ed Miller regarding the invoice to Diamond Hill (attached Exhibit “D”).

Mayor Moyer said that this item was to receive and file the report only and it has been done.

Councilmember Andrade left the meeting at 6:50 p.m. because she was not feeling well.

Mayor Moyer recessed the regular City Council Meeting and called to order a scheduled meeting of the Banning Utility Authority.

BANNING UTILITY AUTHORITY

REPORTS OF OFFICERS

1. Discuss and Consider Adopting Resolution 2017-05 UA, Approving a Renewal of the Professional Services Agreement with Babcock Laboratories, Inc. of Riverside, California for Laboratory Analytical Testing Services for Fiscal Year 2017/2018 in the amount of $60,000. (Staff Report – Art Vela, Public Works Director)

Director Vela gave the staff report on this item as contained in the agenda packet.

Mayor Moyer opened the item for public comments; there were none.

Motion Franklin/Peterson to adopt Resolution 2017-05 UA, approving the renewal of the contract for Laboratory Analytical Testing Services with Babcock Laboratories, Inc. of Riverside, California, in the amount of $60,000 for Fiscal Year 2017/2018. Motion carried, all in favor with Boardmember Andrade absent.

2. Discuss and Consider Adopting Resolution 2017-06 UA, Approving the Renewal of the Contract for Industrial Waste Program Management, FOG and NPDES Inspections and Environmental Compliance Services with Lynn Merrill & Associates, Inc. for Fiscal Year 2017/2018 in the amount of $35,000. (Staff Report – Art Vela, Public Works Director)

Director Vela gave the staff report on this item as contained in the agenda packet.

Mayor Moyer opened the item for public comments; there were none.

Motion Welch/Franklin to adopt Resolution 2017-06 UA, approving the renewal of the contract for Industrial Waste Program Management, FOG and NPDES with Lynn Merrill & Associates, Inc. of Riverside, California, in the amount of $35,000 for Fiscal Year 2017/2018. Motion carried, all in favor with Councilmember Andrade absent.
BANNING FINANCING AUTHORITY (BFA) - no meeting.

Mayor Moyer adjourned the scheduled meeting of the Banning Utility Authority and reconvened the regular City Council meeting.

ITEMS FOR FUTURE AGENDAS

New items

Councilmember Franklin said she would like to see if they could possibly with the Council’s concurrence talk about scheduling a meeting to talk about our vision for the city. We do talk about our General Plan and our Specific Plan and we have gone over our Strategic Plan but we never talked about the vision of where we want our city to be in 10 to 20 years from now. She would like to see this especially as we talk about what we are going to do in our downtown area and put that first so we know what it is that we want.

Pending Items – City Council
1. Website – better navigation, need for more positions for IT (Information Technology)

ADJOURNMENT

Mayor Moyer asked for a moment of silence and closed this meeting in memory of Barbara Reagor a teacher of 32 years in the Banning schools which we recently lost.

By common consent the meeting adjourned at 7:27 p.m.

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK’S OFFICE.
Hi Marie:
The letter below is to the City Council. Don Peterson said that he would like to read it in my place, since I cannot attend
the meeting.
Ed

To: Banning City Council
Mayor George Moyer at a recent meeting reported the finding of the Council that the City Manager had behaved in an inappropriate and unacceptable manner. He reported that this condemnation of the City Manager is now part of the City’s record. This condemnation has also been given to the International City Managers Association as part of their permanent records.

And that was the end of it. That City Manager has continued as Banning’s City Manager. Banning will continue to have a City Manager that behaved in an inappropriate and unacceptable manner, and that behavior is part of our City’s permanent record.

Remarkable. To have the reputation of Banning blemished, to have Banning known as the city being run by someone with this tarnished record is extraordinary.

Would anyone on the Council consider having their personal affairs run by a financial manager with this record? I am sure that no Councilmember would consider it. Yet the majority of this Council is perfectly willing to have our city continue with this type of management.

During the investigation to ascertain the facts regarding the charge of inappropriate behavior by the Manager, the investigator found that the manager had tried to find someone to run against Councilmember Peterson. Evidence was also given that the manager used the negative and incorrect statement at a town Hall meeting that I was opposed to growth when I was on the Council, and Thebanninginfomer has found emails showing that the Manager was questioning the eligibility of Councilmember Andrade to run for office. All these are in direct violation of the code of ethics of city managers, who are directed to refrain from such political actions, and refrain from negative comments about councilmembers. Does anyone think that anyone of you other three Council members Moyer, Franklin and Welch would forgive the City Manager for a second if he had acted that way towards you? Of course not.

The investigator also reported that the City Manager had a lack of credibility in some portions of his statement about this issue. That alone should be sufficient reason for the Council to find a new City Manager.

Do you three Council members think that ignoring unacceptable behavior, as long as it is directed solely at other council members, does not reflect on your own ethics? Of course it does. The question is: does ethics matter to you?
Edward Miller
Banning
Hi George.

As for the Diamond Hills issue, I don't believe that the work performed by the City constitutes a gift of public funds for a couple of reasons. First, Diamond Hills reimbursed the City for the majority of costs (except any rental fees). Second, and more importantly, there is a significant public benefit in the sales tax increase that will inure to the City by virtue of the increased visibility of Diamond Hills. It is not uncommon for cities to trim trees for this reason. As you know, we give Diamond Hills significantly more money in the form of a tax rebate. No court would find that to be a gift as the City receives a public benefit.

Courts recognize that public agencies have broad discretion to identify a public purpose in the context of the "gift of public funds" doctrine. Unless the City's determination is unreasonable, courts will uphold its decision. During the course of accomplishing its public purpose, the City can also incidentally benefit private entities. This incidental benefit is not constitutionally impermissible.

In sum, I don't believe that a court would find the City's decision to trim the bushes to constitute a gift of public funds.

Hope that helps. See you on Monday.
GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 1. GENERAL [8000 - 8899.24] (Division 1 enacted by Stats. 1943, Ch. 134.)

CHAPTER 5. Miscellaneous [8310 - 8317] (Chapter 5 added by Stats. 1953, Ch. 170.)

(a) It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.

→ 8314.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. "Personal purpose" does not include the incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call.

(2) "Campaign activity" means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. "Campaign activity" does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

→ (3) "Public resources" means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time.

→ (4) "Use" means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated.

→ (c) (1) Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.

(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section may be commenced more than four years after the date the alleged violation occurred.

Exhibit "c"

reg.mtg.-05/09/17

http://leginfo.legislature.ca.gov/faces/printCodeSectionWindow.xhtml?lawCode=GOV&se... 5/25/2017
(d) Nothing in this section shall prohibit the use of public resources for providing information to the public about the possible effects of any bond issue or other ballot measure on state activities, operations, or policies, provided that (1) the informational activities are otherwise authorized by the constitution or laws of this state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(e) The incidental and minimal use of public resources by an elected state or local officer, including any state or local appointee, employee, or consultant, pursuant to this section shall not be subject to prosecution under Section 424 of the Penal Code.

(Amended by Stats. 2003, Ch. 62, Sec. 109. Effective January 1, 2004.)
Hi Marie:
The following is a statement about the Caltrans issue on the agenda that I would like sent to the council. Since I cannot attend the meeting, Don Peterson said he would read it for me.
Ed

To: Banning City Council
Re: Agenda item on invoice to Diamond Hills

The Deputy City Manager’s bland presentation of monies owed to the city by Diamond Hills for services rendered is simply a smokescreen hiding the fact that this use of government personnel and equipment to aid a private business is a violation of every principle of our city’s government, or for that matter, I believe the State and Federal government’s principles.

Our city municipal code does not list any legal means for our city’s employees or equipment to be loaned or rented to private businesses. There is nothing in our municipal code that permits overtime work for private businesses by our employees while on our payroll. There is nothing in our municipal code that permits our city manager to apply for permits from other government agencies without correctly specifying the purpose of those permits. But that is exactly what happened. The Press Enterprise reported that the City Manager applied for a permit for landscape maintenance from Caltrans. Such a permit is primarily for weed abatement, but the Manager admitted his aim was really to improve visibility for Diamond Hill’s business sign. This misrepresentation is likely to damage the relationship of our city and Caltrans, as Caltrans was quoted in the article as saying that they were investigating the purpose of the permit. Furthermore, it opens the city up to demands from other business for equivalent usage of city resources, and opens the city to possible lawsuits from other businesses. If Councilmember Welch had asked that the tree trimming be done, he certainly should have known better after his years on the council and years working for Senator Morrel. Furthermore, it certainly was the responsibility of the City Manager to point out the impropriety of such a request. This is another example of the lack of care and the lack of consideration of the ethics in administrative actions.

I ask again: does the Council just ignore unacceptable behavior and think it does not reflect on the Council’s own ethics? As I said before: of course it does. The question again is: does ethics matter to you?

Exhibit "D"

30
reg.mtg.-05/09/17
A special meeting of the Banning City Council was called to order by Mayor Moyer on May 23, 2017 at 4:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Andrade
Councilmember Franklin
Councilmember Peterson
Councilmember Welch
Mayor Moyer

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: John Cotti, Interim City Attorney
Rochelle Clayton, Deputy City Manager/Admin Service Director
Ted Shove, Economic Development Manager
Kerry Trost, PERMA
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

CLOSED SESSION

Mayor Moyer opened the item for public comments; there were none.

Interim City Attorney Cotti stated that there are seven items on the closed session agenda: 1) Existing litigation in the case entitled City of Banning v. Vanir Group of Companies; 2) Real property negotiations pursuant to Government Code Section 54956.8; Property description: APN: 540-202-001. City Negotiators: Michael Rock, City Manager and Ted Shove, Economic Development Manager; 3) Anticipated litigation Banning Library District challenge to the City’s approval of the Rancho San Gorgonio Project; 4) Labor negotiations pursuant to Government Code Section 54957.6 Agency designated representatives: City Manager Michael Rock and Deputy City Manager Rochelle Clayton. Employee Organizations: International Brotherhood of Electrical Workers (IBEW) - Utility Unit, International Brotherhood of Electrical Workers (IBEW) – General Unit; and Teamsters Local 1932; 5) Public Employee Discipline/Dismissal/Release pursuant to Government Code Section 54957 (b) Title City Manager; 6) Public Employee Appointment/Employment pursuant to Government Code Section 54957(b) Title: Interim City Manager; and 7) Anticipated Litigation pursuant to Government Code 54956.9(d)(2) – A Government Claim has been submitted by Claimant Don Peterson

Meeting went into closed session at 4:01 p.m. and reconvened to open session 5:05 p.m.
ADJOURNMENT

By common consent the meeting adjourned at 5:05 p.m.

Marie A. Calderon, City Clerk
MINUTES  
CITY COUNCIL  
RANCHO SAN GORGONIO PROJECT  
BANNING, CALIFORNIA  

05/23/17  
REGULAR MEETING  

A regular meeting of the Banning City Council, a joint meeting of the Banning City Council and the Banning Utility Authority; and a Scheduled Meeting of the Banning Utility Authority was called to order by Mayor Moyer on May 23, 2017 at 5:10 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT:  
Councilmember Andrade  
Councilmember Franklin  
Councilmember Peterson  
Councilmember Welch  
Mayor Moyer

COUNCIL MEMBERS ABSENT:  
None

OTHERS PRESENT:  
John C. Cotti, Interim City Attorney  
Rochelle Clayton, Deputy City Manager/Administrative Services Dir.  
Alex Diaz, Police Chief  
Fred Mason, Electric Utility Director  
Art Vela, Public Works Director  
Tim Chavez, Battalion Chief  
Philip Southard, Public Information Officer  
Patty Nevins, Interim Community Development Director  
Ted Shove, Economic Development Manager  
Gina Boehm, Customer Service/Billing Manager  
Suzanne Cook, Finance Manager  
Art Chacon, Code Enforcement Officer  
Sonja De La Fuente, Executive Assistant/Deputy City Clerk  
Marie A. Calderon, City Clerk

The invocation was given by Suffragan Bishop Preston Norman Jr., Praise Tabernacle Community Church. Mayor Moyer led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

Interim City Attorney Cotti stated that there were seven items on the closed session agenda with Item No. 2 regarding Conference with Real Property Negotiators APN No. 540-202-001 being pulled from the closed session items and the Council considered the six items: 1) Existing litigation regarding City of Banning v. Vanir Group of Companies; 3) Conference with Legal Counsel regarding anticipated litigation Banning Library District's challenge to the City's approval of the Rancho San Gorgonio Project; 4) Under Labor Negotiations pursuant to Government Code Section 54957.6 the Council gave direction to its labor Negotiators; 5) The Council discussed Public Employee Discipline/Dismissal Release pursuant to Government Code.
Section 54957(b) Title: City Manager; 6) The Council also discussed Public Employee Appointment/Employment pursuant to Government Code section 54957 (b) Title Interim City Manager; and 7) Under anticipated litigation the Council discussed the claim filed by Claimant Don Peterson. There were no reportable actions taken although the Council did accept the resignation of City Manager Michael Rock.

PUBLIC COMMENTS

Ellen Carr, Tender Loving Critters Animal Rescue addressed the Council stating that Animal Action League will be here June 26th and 27th. They have been doing a great service for Banning having spayed or neutered approximately 300 critters and that it a lot when you think about how many critters and procreate from a single pair. You can call Animal Action League at 760-366-1100 for information and you will need to set an appointment for spay and neutering. She went over the pricing for the various shots and other procedures and expressed the need for licensing and microchipping of your animals.

David Ellis addressed the Council stating that he would like to talk about the $30 million dollars that went up in smoke. Get on board, there is plenty for everybody, everybody. He said on Friday, May 19th Mr. Fred Sakuari wrote a letter to the editor of the Record Gazette titled “Grandstanding”. It appears from the article that Mr. Sakuari is tired of watching Councilman Peterson going after the mismanagement of this City. Mr. Sakuari feels that Councilmember Peterson should move on to other and more important things. So far because of Councilman Peterson’s due diligence nearly $10,000 has been billed to Diamond Hills Chevrolet which otherwise the taxpayers would have never received. He only wishes that Councilman Peterson would have been “grandstanding” on the City Council in 2006 when Fred Sakuari’s wife Charlene Sakuari was President of the Banning Cultural Alliance. Just maybe, just maybe Councilman Peterson could have “grandstood” and saved the taxpayers $1.4 million. Councilman Art Welch at the time gave Charlene Sakuari and Bob Botts the first $250,000; Fred Sakuari had to love it. With Bob Botts as Charlene’s second Vice President, God only knows where the first $1.4 million went. It certainly didn’t go into improving the city. When it comes to the “good ole Boy Club” and giving away tax dollars you can bet that Fred and Charlene Sakuari, Bob Botts, Debbie Franklin and Art Welch do not like a lot of questions.

Ed Miller, resident said sadly he is here because he was greatly disturbed by Councilmember Franklin’s statement at the last meeting that she was interested in having a special meeting to plan the future of Banning. Unfortunately, we all know that there is already a plan, a Master Plan for the City, and that cost over $2 million to prepare. And besides that there was a long meeting for developing the Housing Element to take care of the fact that the State wanted us to have low income housing and we had so much input from the people of this city for that particular plan. But in regard to those plans that exist for the City, Debbie Franklin has ignored those important documents completely always voting without question for whatever a developer wants for Banning. He said the question he always asks himself is, “Why, why not try to get a better deal for the City”. The existing Master Plan called for low density housing in the north east corner of Sunset but Debbie along with Welch and Moyer ignored the Master Plan and voted for higher density, lower cost housing, desired by the developer. Why, why not try to get the best deal for the City. Similarly, the Master Plan calls for low density housing in the city’s large south east
undevolved area. But again, Debbie, Welch and Moyer approved mixed housing for the same 
giant development area in one single meeting. Again, why, why not try to get the best deal for 
the City. He asked Councilmember Franklin what happened to her explanation of the benefits of 
the court house in bringing high income housing for lawyers and judges to come live in Banning 
from the court house. The reduction in the cost of housing possible for them ends their plan. 
Equally frustrating and ingenuous is your frequent statements that you want Banning to be a 
healthy city. When the Sunset area developer refused to put in a public park and refused to put 
in a safety stop for the children, you accepted that statement without comment. Why, why not 
try to do the best for the city. When the developer of the south east project, the same developer, 
was asked to increase the size of the library and the public space at the community center, he 
refused and you accepted his refusal without question again ignoring the needs of the city’s 
populous. Why, why not do the best for the city. Unfortunately your actions in accepting 
everything developers ask for is not new. Years ago a developer planned to bring a human waste 
incinerating plant into Banning with its obviously outrageously high amount of pollution. 
Equally outrageously you approved a letter of intent to build that plant, the purchase of nearby 
land by the City to help that plant, and rezoned nearby homes from residential to commercial 
without the approval of the owners to help that plant get started, healthy city indeed. That would 
have made this the most polluted city in Riverside County. Fortunately that insanity was stopped 
by an initiative from the people of Banning. By the way, no other city ever approved such a 
ridiculous plant. Your gyrations trying to get approval of anything that a developer wants for the 
project across from city hall is indeed remarkable. When the City first approved the project it 
was supposed to be an upscale shopping center including a name brand hotel. When the 
developer wanted to change the hotel to a probation office you approve the City’s Manager 
changing it without knowledge of the rest of the Council. To further the project, you argued that 
the downtown should be reduced from having the east end at Hargrave to starting at San Gorgonio 
Avenue instead to permit that project abandoning that entire section as a section for us, the 
residents of Banning, to enjoy. You then approved having this project transferred to another 
developer when the first developer bailed out and that has led to the present position of the City 
needing to sue the current developer to obtain that land back with no developer in sight and large 
possible legal fees for the City.

Inge Schuler, resident addressed the Council stating that she was not here prior to the closed session 
and she would like to make a request regarding the items on the closed session. You pulled Item 
No. 2 and that was the one she was going to use as a request. Whenever you list these things you 
give the APN (Assessor Parcel Number) and people in general have no clue what that stands for. 
She was here when Sue Palmer was Mayor and that was the first time that she registered that 
particular request and here we go again. It would be nice for you to include the addressed of the 
property. She can only imagine that this Item No. 2 was the business center and she would like to 
have a progress report on that one and she doesn’t know whether that was part of the closed session. 
When you give the APN, please also give the address of the real property so people know what you 
are going to be discussing. It’s of interest to everybody and in the interest of transparency. 
Tomorrow night she wanted to make sure that everybody in town knows about the meeting at 6:30 
p.m. which deals with the electric utility billing. A lot of people have been very upset about the 
billing practices and the agenda item was at the bottom of all the other agendas. Even our Police 
Chief didn’t notice that this was on there until she pointed it out to him. Again, you must be 
transparent. That is part of the system that we enjoy in this country and we should stick with that.
She would also like to have a progress report on the tag line “Stagecoach Town USA”. She still sees that nothing has been done, nothing has been decided, or maybe you like what you see and you don’t care what you actually approved some time ago.

Dorothy Familetti-McLean addressed the Council regarding Vanir (attached Exhibit “A”). She stated that in regards to Stagecoach Days they will be having the official shave off for the 60th Annual “Diamond Anniversary” kickoff for the Whiskerino Contest on June 16, 2017 at The Station Tap House Bar & Grill at 41 W. Ramsey with festivities from 4 to 7 p.m. There is a $15.00 entry fee per contestant. Stagecoach Days Ms. Hatterino Contest will be held on the same day and the registration fee is $10.00. Judging for both events will be held on August 26, 2017 and more information will be coming.

Interim City Attorney responded to Mrs. McLean stating as you know the City has filed a lawsuit against Vanir to seek the reconveyance of title from Vanir to the City pursuant to the purchase and sale agreement and related documents. Immediately upon filing that lawsuit the City received contact from Vanir asking to engage in settlement communications. He said that they talked about this last week to essentially give us everything we want as part of that lawsuit. So rather than pursue heavy litigation and expense related to that the City is seeing if we can work out some kind of an agreement whereby property is restored to the City and we get to again, engage in a process to dispose of it; not to Vanir but to someone else.

Jerry Westholder, resident said he wishes he could say that he is sad about the leaving of Mr. Michael Rock but he employs this Council to look for somebody who will not interfere on free elections nor engage in coercion to have their own appointees put to public committees. He addressed Councilmember Franklin stating what he considers and illegal, immoral and unethical act of having the gymnasium put into the new building for the Electric Department, he doesn’t need to get over it. He said he can make his own decisions and form his own opinions. He is here to present to you, the Council, because it seems like nobody understands what a forensic accounting is and also to remind the Council that Banning has the 5th highest utility rate in the state and also one of the lowest incomes so he has legal definitions of what a forensic audit is. He stated that forensic accounting and financial forensics is a specialty practice of an area of accounting that describes engagements that result from actual anticipated disputes or litigation. The work performed and reports issued will often provide answers to the how, where, what, why and who. Forensic accounting often assisted professional negligence claims where they are assessing and commenting on the work of other professionals. Engagements relating to criminal matters typically arise from the aftermath of fraud. They frequently involve the assessment of accounting systems, accounting presentations and the essence assessing if the numbers reflect reality. The business dictionary says it is the application of accounting methods to the tracking and collection of forensic evidence usually for investigation and prosecution of criminal acts such as embezzlement or fraud also called forensic accounting. At this time he used them in sentences as follows: 1) The company CFO is under suspicion of fraud and currently going through forensic audit and search of accounting evidence of criminal activity; 2) After having thousands stolen from them the company decided to perform a forensic audit to understand how they were able to get away with all this money. 3) The attorney’s for ABC Company recommended that a forensic audit be performed after a high-level employee left the company under suspicious circumstances. He said we have the 5th highest rate in the state; we have one of the lowest incomes. It is your responsibility. Mr. Moyer, Mrs. Franklin you said you represent the
whole city not just your seconds or special interests. The whole city wants this done. We want an
accurate accounting of everything in our utility departments so intelligent decisions can be made
where we had once the lowest rates in the state and now we have the highest and have nothing to
show for it.

Don Smith addressed the Council stating that he was here on behalf of the Banning Community
Fund which is a fund managed and maintained by the Community Foundation of Riverside and San
Bernardino Counties. In 2011 they started planning the Centennial and as part of that planning they
felt it would be nice to not just celebrate the Centennial but come up with permanent items that
would in the future also help us celebrate our Centennial so they decided to form a foundation and
during the Centennial they raised $50,000. This fund is being held so that the interest earned as the
fund grows will go to assist our local non-profits in meeting their missions in providing services to
the citizens of Banning. They do not use their money to support national non-profits but use it to
support local qualified 5013c’s. In June 2016 their Advisory Board decided to start a program called
the “100 Friends Who Love Banning”. They got this idea from a very creative lady in Texas named
Karen Dunigan. Karen was at a meeting at a local hospital and learned that most of the poorer
women who were having babies and leaving the hospital when they took the babies were using as
cribs either boxes or dresser drawers because they didn’t have cribs or money for cribs. So she
decided that she needed to do something about that and formed the “100 Women Who Care” so
they kind of copied that from her. So she decided to get together her 100 friends so in their case
they would all commit $100 to support a local non-profit, raise funds to buy cribs and in fact they
met that mission and now as a result of that every kid that leaves that hospital also leaves with a
portable crib. They had their first meeting of the “100 Friends Who Love Banning” of which there
are 26 of them with room to grow and at that meeting what happens is that everybody present has
the right to say I want to present for a local project, put your name in the hat and whatever three
names get drawn those three people get to give a presentation of why we in the room should support
that local non-profit. At that meeting the winner was Long Ear Donkey Rescue; it is like a rescue
for dogs. At that meeting the 26 people donated $1,300 for that project. Their next meeting is
tomorrow and he realizes that the Council cannot be there because of a special meeting but their
meeting is tomorrow at 6:00 p.m. at the Banning Women’s Club if anybody would like to come and
become one of the 100 Friends Who Love Banning and help support our local non-profits. It is $50
and everybody gets a vote and at the end after the three presentations they vote, count the votes, and
decides who wins and everybody present gives $50 to that local charity.

Diane Box addressed the Council stating that she is still requesting a forensic audit of our utilities
especially after another 33-day billing cycle this month. Also for the last few weeks the talking head
of Bob Botts which of course is none other than Fred Sakurai once again raising his ugly head inside
the fortress of Sun Lakes. To her surprise he is continuing to use the City Clerk to deliver his nasty
and attacking letters. It is unfortunate that this cowardly act and personal platform is allowed by the
City. Over the years the citizens of Banning have learned that Fred Sakurai is a spineless individual
that does not have the intestinal fortitude to come to the Council meetings and deliver his vile
personality. He would rather sit in his fortress and let others do it for him. However, if this was
2006 and Art Welch was handing out people’s money, Fred Sakurai and his wife Charlene would
be here in a flash reminiscent of the Banning Cultural Alliance where she was President and Bob
Botts was 2nd Vice President as stated on the website and which she has provided to the City Clerk
if anyone would like to see it because she did deny that fact one time (attached Exhibit “B”). The
“good ole boys” are upset and rightfully so and someone is on the Council who is grandstanding and watching out for the people so thank you Don Peterson and thank you to Councilmember Andrade for her due diligence as well and she is very proud to have the both of them on the City Council. Ms. Box said her questions is why is Sakurai and his wife not upset that the City has the time, the money and the equipment to lend out for free and that was until they were caught giving away services and putting our City employees in extreme danger on the freeway. There is a reason why Caltrans is in charge of that district. She would guess it is about who you know. On a positive note, Michael Rock is leaving and if we could get three more on the Council to leave, the City would be a lot better off. She is really looking forward to 2018.

CORRESPONDENCE

Deputy City Clerk read a letter from Fred Sakuari regarding the departure of City Manager Michael Rock, grandstanding, and the issue of marijuana (attached Exhibit “C”)

ANNOUNCEMENTS/REPORTS

Acceptance of Letter of Resignation – City Manager Michael Rock

Mayor Moyer said that the City Council has accepted the City Manager’s resignation as you have heard which was reported from Closed Session. At this time he read the resignation letter (attached Exhibit “D”).

City Council

Councilmember Andrade –

- She said she had no reports on committees but did want to say that we need to support our local businesses. She knows that there is not many places to shop around here but whatever we have make sure you utilize those stores, the eateries, and all our restaurants because that is revenue for the City.

Councilmember Franklin –

- They did have their animal services meeting last week and had a presentation by the County regarding the animal services that they provide. Unfortunately, she had to leave early but doesn’t think that they came to any resolutions she believes.

Chief Diaz said there were no resolutions in relation to the animal control meeting. They were just there to remind us that the County does offer some services as well. They didn’t provide a monetary amount to what they can offer but of course they said at any point they would be willing to provide that information. The goal wasn’t to bring them in here to make a determination of moving on to a different type of service they just wanted the folks who were present at the meeting to see what is out there. After that Klaus came in and did a very brief presentation on the Long Ear Donkey Rescue. He also asked the ad hoc committee to come up with a new date for their next meeting.

Councilmember Franklin (continued) –
• She said normally they have their Water Alliance Meeting on the 4th Wednesday and it has been rescheduled to May 31st at 5:00 p.m. in the large conference room at city hall.

Mayor Moyer –
• He attended one meeting with Community Action but they talked more about their budget for next year so he will get more information later on as to what they are doing around town. They will be kicking off the “Cook Centers” on June 2nd at the Banning Municipal Pool at 9:00 a.m.

Report by City Attorney – None

REPORT BY CITY MANAGER – None

CONSENT ITEMS
1. Approval of Minutes – Regular Meeting – 04/25/17

Recommendation: That the minutes of the special meeting of April 25, 2017 be approved.

2. Approval of Minutes – Special Meeting – 05/09/17

Recommendation: That the minutes of the special meeting of May 9, 2017 be approved.

3. Approval of Minutes – Special Meeting – 05/09/17 (Closed)

Recommendation: That the minutes of the special meeting of May 9, 2017 be approved.

4. Public Works Capital Improvement Project Status List

Recommendation: Information only; receive and file report.

5. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of April 2017.

Recommendation: That the City Council review and ratify the warrants for period ending April 31, 2017, per the California Government Code 37208.


Recommendation: Adopt Resolution 2017-52, approving the renewal of the Custodial Services Agreement for City facilities with Merchants Building Maintenance, LLC of Pomona, CA for Fiscal year 2017/2018 in the amount of $63,277.

Mayor Moyer opened the item for public comments; there were none.
Motion Peterson/Franklin that Consent Items 1 through 6 be approved. Motion carried, all in favor.

PUBLIC HEARINGS

Councilmember Peterson recused himself from this item because he owns property in the district.

1. Discuss and Consider Adopting Resolution 2017-48, Confirming the Levy and Collection of Assessments within the City of Banning’s Landscape Maintenance District No. 1 for Fiscal Year 2017/2018.
   (Staff Report – Art Vela, Public Works Director)

Director Vela gave the staff report on this item as contained in the agenda packet.

Mayor Moyer opened the public hearing for comments from the public. Seeing no one coming forward, Mayor Moyer closed the public hearing.

Councilmember Franklin asked Director to clarify that there is no increase. Director Vela said there is none.

Motion Franklin/Andrade to adopt Resolution 2017-48, Confirming the Levy and Collection of Assessments within the City of Banning’s Landscape Maintenance District (LMD) No. 1 for Fiscal Year 2017/2018 pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code and authorize and direct the City Clerk to file the diagram and assessment with the Riverside County Assessor/County Clerk-Recorder’s Office. Motion carried, all in favor. (Councilmember Peterson did not vote on this item because of a conflict of interest.)

Mayor Moyer recessed the regular City Council Meeting and called to order a joint meeting of the Banning City Council and the Banning Utility Authority.

Councilmember Peterson returned to dais.

REPORTS OF OFFICERS

1. Consider Adopting Resolutions 2017-53 and 2017-08 UA, Authorizing the FY 2016-17 Mid-Year Budget Adjustment.
   (Staff Report – Rochelle Clayton, Deputy City Manager/Administrative Services Director)

Councilmember Peterson asked if they could add to this if there was another item that they would like to add to this mid-year adjustment. Deputy City Manager said yes, if that is something they want to add for this current 2016/2017 fiscal year.
Councilmember Peterson said that he would like to add a $12,000 software expense for the parks so that they can utilize an on-line service for registration and parents can go on-line and register their children for different activities and things.

Deputy City Manager said it can be added and it is a line item in the fiscal year 2018 budget adjustments and was not presented today because it was not a significant change but they can go ahead and add it.

Councilmember Peterson asked if it could be added to this year and then could it be bumped up and then in use for this year.

Deputy City Manager said yes but she couldn’t say it would be in use for this year because she is not sure about the process of putting it in place but they can certainly start it sooner by making the adjustment this year. And also like she pointed out we have that $98,000 dollar net increase overall in the General Fund Revenue so it will just be absorbed in that.

Councilmember Andrade said she just wanted to clarify that this mid-year actually expires and is only through June and then in July we start a new one. Deputy City Manager said that was correct.

Councilmember Peterson said his second thing would be the bleachers and could that be kicked up a little bit. He cannot remember the cost. Director Vela said it was his understanding that they were going to rent them this year for $15,000.

Deputy City Manager asked if they would like her to budget for $20,000 so that way they cover the approximate cost because she does remember a $16,000 dollar number. Director Vela said it was around $15,000 to $16,000 for the rental and he remembers seeing a number for the actual installation of permanent bleachers which they would do after this Stagecoach Days and he thinks that was around $60,000 or $70,000.

Mayor Moyer said that they can simple increase what they give to Stagecoach Days by $15,000. Deputy City Manager said the actual cash donation is what they would want to increase. In regards to the in-kind services it is a service we provide to them and if we are actually wanting to pay for this, this would be something that we would probably want to donate them just as we do for the $10,000.

Councilmember Peterson said he would like to make a motion to add the $12,000 software package for the Parks and Recreation and get that going as soon as possible and to add an additional $15,000 to the Stagecoach Days Fund; second by Mayor Moyer.

Councilmember Franklin said in regards to the software, do we have to do an RFP process on that and would we be able to get it done by this fiscal year. Deputy City Manager said even if they can’t get it done before the end of this fiscal year, this authorizes us to start on it sooner. So what they have in here are some continuing appropriations and if they have a project that they start they can just continue the appropriations to next year so this just gives them a chance to get it started sooner.
Mayor Moyer opened the item for public comments.

Jerry Westholder addressed the Council stating that 1) he doesn’t want to point out the obvious but thankfully to Mr. Moyer and Mr. Welch we negotiated our 80 cents tax to Robertson’s Mine down to 25 cents otherwise this wouldn’t have been a problem and Mr. Welch benefited by their donation to his campaign so that is a major concern; and 2) he is opposed of anything from the Utility Commission, he understands we need to do these things, but anything out of the Utility Commission when we still have one of the highest rates in the state and he is going to keep pounding this and he is glad that Diane Box pointed out that we are 33 days again. If his bill is over 31 days, he guarantees that he will begin talking to the citizens of this city and they will have to organize to have something done. That is what we are going to do because this is getting ridiculous. The City needs to take care of its residents. When we do that you no longer represent the citizens. You are self-interest and the tail doesn’t wag the dog. We exist for the people not in spike of them. The people are here not to give you position. Your position is here to take care of the people and one of that is responsible and lower utility rates so these people can take care of their families.

Mayor Moyer closed the item for further public comments seeing no one coming forward.

Motion Peterson made his motion again to clarify that the City Council approve Resolution 2017-53, and the Banning Utility Authority approve Resolution 2017-08 UA: 1), authorizing the recommended mid-year budget adjustments and continued appropriations for the FY 2016-17 adopted budget, and to add $12,000 software package for the Parks and Recreation and, as amended, to add up to $20,000 to Stagecoach Days; and 2) Authorize the Administrative Services Director to make necessary budget adjustments, appropriations, and transfers. Moyer seconded the motion as amended. Motion carried, all in favor.

Mayor Moyer adjourned the joint meeting and reconvened the regular City Council Meeting.

REPORTS OF OFFICERS

1. Consider Adopting Resolution 2017-50, Authorizing the Purchase of Three (3) Utility Trucks for the Field Service Representatives in the Amount of the Lowest Quote of $81,200 from Diamond Hills Chevrolet, Buick, GMC.
   (Staff Report – Rochelle Clayton, Deputy City Manager)

Director Clayton gave the staff report on this item as contained in the agenda packet.

Councilmember Peterson said so they agree that the 6-cylinder would outperform the 4-cylinder. Deputy City Manager said yes.

Mayor Moyer opened the item for public comments; there were none.

Motion Peterson/Welch to adopt: 1) Resolution 2017-50, authorizing the budgeted purchase of one (1) 2018 Chevrolet Colorado – 6 cylinder 4-wheel drive extended cab truck and two
(2) 2018 Chevrolet Colorado -6 cylinder extended cab trucks, in the amount of $81,200 from Diamond Hills Chevrolet, Buick, GMC for the lowest bid with consideration to local vendors; 2) Authorize the City Manager to execute the Purchase Contract; and 3) Authorize the Administrative Services Director to make necessary budget adjustments, appropriations, and transfers. Motion carried, all in favor.

2. Update on Weed Abatement, Vacant Buildings
   (Staff Report – Alejandro Diaz, Chief of Police)

Chief Diaz gave the staff report on this item as contained in the agenda packet.

Councilmember Peterson asked who put this item on the agenda. Councilmember Franklin said that she requested it. Councilmember Peterson said that he had requested that an item be placed back on the agenda which was oleander/Diamond Hills issue and that didn’t make it but this one did. He asked if that could get back on the agenda.

Deputy City Manager said if that is the wish of the Council, she can bring that back. She did email all the information that was requested but she didn’t have it in time for this agenda.

Councilmember Peterson said the thing of it is that he asked for a specific item to be brought back to share with the public and to be placed back on the agenda it didn’t make it but the weed abatement did and it needs to be back on the agenda.

Mayor Moyer said this discussion needs to be over because it is not really an agenda item. Councilmember Peterson said they are not discussing the item, they are discussing put it on the agenda. Mayor Moyer said let’s discuss this when they come to pending agenda items.

Councilmember Andrade said all these abandoned properties with the exception of the business center she saw on the list that there were several abandoned houses and has he been able to contact the owners.

Chief Diaz said he believes that they have contacted some of them and they are just trying to get them to comply. These are some of the problem homes that we are having issues with and some of residences are owned by people that live out of state so it is very difficult, some of them might be in probate so they are in that gray area. The process has begun with all of these homes and we have to allow that time frame that the law allows for property owners to fix certain issues. It is exactly the same process that they have to follow with the Banning Business Center. Each residence that you see on that list they are not all on the same time frame.

Councilmember Andrade said she understands that. She asked if there were any on the abandoned list that they are not able to get in touch with the owners specifically because they don’t live in town or maybe in the state. She just wants to make sure that every effort was made in order to contact the owners.

Art Chacon, Code Enforcement Officer addressed the Council stating that there are a lot of different circumstances that go with abandoned houses like Chief Diaz said. There are some that
they can get a hold of and they are working with them and have to give them due diligence. They have to give them the time to try to correct it themselves. Sometimes there is hording situations and they are working with them to give them the time to correct those problems. Sometimes they are not honest but you don't know that until they are given a chance. As that time goes on it looks like there is a whole lot of time. After they are given that time they go to an Administrative Citation process which hopefully puts fire under them to start taking care of their properties. When that doesn't work they get a contractor to go ahead and clean it for the City and then the contractor is reimbursed for their services.

Councilmember Andrade asked who pays for that; the City or are you going to bill the owner.

Mr. Chacon said that they bill the owner and if they don't pay the billing, then a lien is put on their property for the services. It does take a minimum of 30-days most of the time. Like he said the City tries to give them a lot of chances and bends over for the citizens of Banning. They are given ample time to take care of the problem.

Chief Diaz said to be able to quantify and give you a figure as to how many of these homes they have success in contacting property owners and some of which they haven't maybe he can come back a later date or send an email to the Council giving that information.

Councilmember Andrade said that is not necessary. She just wanted to make sure that every effort was made in order to contact the owners because if it is somebody's property and especially if they don't live in town or out of state, that they were actually given notice and have received some kind of contact from us versus they didn't reply so we are going to do the same thing.

Chief Diaz said the law forces them to contact the property owners and doesn't give any leeway so every effort is made.

Councilmember Franklin said that when people register the vacant properties with the City what happens after that.

Chief Diaz said that they maintain it. The law does allow for them to board-up a house but they are limited to the amount of time that a residence or property can be boarded. He believes it is about 12 to 15 months. After that time frame is established then they have to bring the residence up to code. So the residence must be habitable and by gaining the voluntary compliance they are hoping that these property owners or the banks are doing their due diligence to either rent out these properties through a management company or sell them.

Councilmember Franklin said she knows that we have some that have been vacant for years but they don't look like anything different. Chief Diaz said some of those may not be properties owned by banks. Those may be some of the out of state property owners that they are dealing with.

Councilmember Andrade said for the homes that are boarded-up and you cannot find any owners what happens after that. Do you upkeep the property, make sure there are no fire hazards and what not and that would be incurred by the City, the cost.
Chief Diaz said that was correct. They still have to go through a probate process and liens are placed on that property but there is still a process that has to be followed by the County and once that process is completed then staff would come back to the Council with a process similar to what they did with the Banning Business Center. It is a very long and tedious process.

The recommendation was to continue with weed abatement and the vacant building process.

Mayor Moyer recessed the regular City Council Meeting and called to order a Schedule Meeting of the Banning Utility Authority.

**BANNING UTILITY AUTHORITY**

**Roll Call:** Boardmembers Andrade, Franklin, Peterson, Welch, Chairman Moyer

**CONSENT ITEMS**

1. Authorize the City Manager to Sign the Notice of Completion for Project No. 2016-03WW, Anaerobic Digester Dome Seal Repair and Cleaning of Digesters, as complete and direct the City Clerk to record the Notice of Completion.

Mayor Moyer opened the item for public comments; there were none.

**Motion Franklin/Andrade to approve Consent Item No. 1. Motion carried, all in favor.**

**REPORTS OF OFFICERS**

1. Discuss and Consider Adopting Resolution 2017-07 UA, Approving an Amendment to the Professional Services Agreement with Aspen Environmental Group in the Amount of $150,745 for Environmental Services Related to the Flume.

(Staff Report – Art Vela, Public Works Director)

Director Vela gave the staff report on this item as contained in the agenda packet. Director Vela said that Scott White with Aspen is here this evening in case the Council has any questions or would like to discuss some of the details of the technical studies.

Mayor Moyer said in regards to the $150,000 that is the total cost and we are taking it all on and not sharing it with the other people involved.

Director Vela said yes and that Banning Heights again, as he mentioned, has funded two contracts with Aspen since our last amendment so in his opinion they have paid their fair share and have been a wonderful partner in this process. And as he mentioned staff will continue their discussions with Edison as soon as they figure out exactly what they should pay.

Mayor Moyer asked if the other elephant is still in the room. Director Vela said he assumes that he is talking about the Pass Water Agency and staff has not had a discussion with them in regards to the cost share on these particular studies.
Councilmember Franklin said when Director Vela talks about not having the time to be able to talk with Edison about it people should know that this has been an extremely tedious process. It has taken months just to be able to get to the point of being able to get the Forest Service to sit down and talk with us in person. Just so people understand the participating entities have been meeting weekly. There are ongoing meetings to try to contain the cost. They have tried to work through our lobbyist also and they have gone to our Congressman’s offices again as of last week to ask for them to intervene because the cost that is being shown by Aspen is $150,000. The Forest Service wanted to charge us $720,000 and they reduce it to $620,000. So we have taken that to our representatives to show that we are trying to do our due diligence and trying to do those things that absolutely have to be done but they are questioning the Forest Service ability to be able to tell us that they want to do a cost share with the City and they said just give us a down payment and you can just pay us and get the studies done. So the efforts have been made and she commends staff and Aspen because they have really been honing down to try to narrow this down as much as possible from the $700,000 figure that was received from the Forest Service. The bottom line is that we still have to get the permit from the Forest Service.

Councilmember Andrade asked how much does that cost.

Councilmember Franklin said that is part of the studies and that is why they have gone to our representatives to say this is what the Forest Service has said and this is what Aspen has said the difference of $700,000 versus $150,000 and we need their help. They did get a commitment from both Congressman Ruiz’s office and Congressman Calvert’s office that they would be making phone calls this week.

Mayor Moyer opened the item for public comments; there were none. Mayor Moyer thanked Mr. White for being here this evening.

Motion Welch/Franklin that the Utility Board: 1) Adopt Resolution 2017-07 UA, Approving an Amendment to the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA in the amount of $150,745 for environmental services supporting the pursuit of a Special Use Permit for the Flume; 2) Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement Amendment for environmental services; and 3) Authorizing the City Manager to execute the Amendment to the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA for environmental services related to the Flume. Motion carried, all in favor.

BANNING FINANCING AUTHORITY (BFA) - no meeting.

Mayor Moyer adjourned the scheduled meeting of the Banning Utility Authority and reconvened the regular City Council meeting.

ITEMS FOR FUTURE AGENDAS

New items –
Councilmember Peterson said that he wanted to bring the oleander issue back but wanted to read something first: Agenda Contents 5.1 of the Council’s Manual of Order – “Any legislative body member may place on the agenda any business that should be deliberated upon in the future by the legislative body. Any legislative body member desiring to present a subject for the legislative body consideration shall advise the City Manager’s office of that fact not later than twelve noon on the Tuesday of the week preceding the meeting at which the member wishes the subject to be considered. The matter shall then be listed on the next agenda for discussion of whether it should be a future item. The City Manager shall advise the legislative body of constraints affecting the staff’s ability to produce an agenda report and when the matter should be scheduled.” Councilmember Peterson said he doesn’t need the consensus of the Council to place an item on the agenda. He is asking that this item on the oleanders be placed on the next agenda.

Councilmember Franklin said she just wanted to clarify that comments were made earlier about the visioning workshop. The visioning is to talk about what we want to see our city to look like and it would include what we talked about as housing. It is not a part of the General Plan, it is not a part of Master Planning, it is a plan for the Council to talk about what we want our city to look like 20 years from now in regards to what kind of businesses we want here and how we want to be known. When we talk about the things that we have to do there are some things we are required to do like a housing element required by the State and she is not talking about that either. It is not on the agenda but she did ask to talk about scheduling a visioning workshop.

Councilmember Andrade said she would like to put an item on the agenda since we do not need consensus. She wants to bring up the cannabis discussion again on all levels.

Pending Items – City Council
1. Website – better navigation, need for more positions for IT (Information Technology)

Councilmember Andrade asked about the pending items. Mayor Moyer explained that is the list of pending items and the items just mentioned will go on to that pending item list.

Councilmember Andrade asked if she was correct in saying that the IT pending item will be on the next agenda because she was told at the April 25th meeting that this item would be on the workshop agenda which the Council never received. Mayor Moyer said it is a pending item and staff can tell us why or why not it can’t be on the next agenda.

Deputy City Manager said depending on the information gathering and what it takes to put the agenda item together is what determines how soon we can get it on the agenda. She didn’t have the information for the oleander item until Friday and that was after this agenda was posted so she didn’t have time to get it on that agenda. What Councilmember Andrade is requesting it is going to depend on the level and it was said to encompass everything so it will depend on staff time and how quickly we can put it together. Staff will definitely bring it back but it just depends on how long it takes to put everything together that is required to make sure staff brings to Council an accurate, full agenda item and that goes for anything.

Councilmember Andrade said on the Pending Items it says, “Website – better navigation, need for more positions for IT (Information Technology).” As she said, at the April 25th meeting when she
brought this up Michael Rock said that would be part of our budget study that we had earlier today so apparently she has been lied to because it was not part of the study so will this be on next agenda.

Mayor Moyer said he does believe that this was discussed this afternoon and it will be in our next budget discussion.

Deputy City Manager said it will definitely be presented to the Council for the budget. Michael did talk to her about that and she didn’t get the justification in time to add it to the workshop but it will definitely be brought to the Council for the budget adjustments for the IT item that was brought up.

ADJOURNMENT

By common consent the meeting adjourned at 6:37 p.m.

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK’S OFFICE.
To: Banning City Council Members

From: Dorothy Familetti-McLean

Re: Vanir project

May 23, 2017

Good evening Mayor and Council Members,

Many weeks ago, it was mentioned that Vanir Corp. had 30 days to respond to the city’s letter regarding the project across from the police station. Thirty days came and went, and we really never had any kind of significant update as to what was happening with the project.

We had the opportunity to get out when Pearlman defaulted a few years ago. Why didn’t we get out then? Vanir has been given more extensions than they deserved. Why didn’t we get them out? A majority of the council dragged their feet regarding this project hoping for “something that was better than nothing.” That is a very low standard.

Has Vanir responded to the city’s requests to take back the property? Are you waiting for a court ruling regarding this matter?

My understanding is that there is no lease from the county for a probation dept.

If that is true, then that is a good thing. Can you at least tell us what is going on and what comes next?

What are we waiting for? Please give us a clue.

Thank you.

Exhibit "A"

reg.mtg. -05/23/17
Our sad farewell to our current City Manager Michael Rock. We wish you the best in Santa Paula, with sincere hope that the environment will be much more friendly. .. We regret that you had to put up with the boorish grandstanding council member who goes by the initials Don Peterson, and the fired planning commissioner with the initials Dave Ellis, and of course, the aged council member who was voted out of office, with the initials Ed Miller.

We are grateful for the various projects which you helped to initiate for the city of Banning. And, as your legacy, we hope they will all come to fruition.

On another topic: Marijuana, or cannabis, is a weed and can be easily grown at home in small planters or pots as current law permits. The process of harvesting and curing the leaves can easily be found on YouTube. Additionally, it is my thought that all cannabis dispensaries should be located at least 1000 feet from any school or place of worship, and the owners and employees of the dispensaries should have a Dept.of Justice clearance.

Fred Sakurai
May 16, 2017

Mayor George Moyer
Mayor ProTem Debbie Franklin
Council Member Daniela Andrade
Council Member Don Peterson
Council Member Art Welch

Dear City Council:

Please accept this letter as my resignation as the City Manager of the City of Banning. I want to express my appreciation to the City Council for unanimously hiring me in November of 2015. It has been my honor and privilege to serve the City of Banning for the past year and a half. I have been offered and have accepted another City Manager position in the state.

Per my employment agreement (Section 3.3) I am required to provide the City Council with at least thirty (30) days advanced written notice. Please accept this letter as the advanced written notice. I will be on two short vacations from May 18-22 and from May 31-June 2. My last day with the City will be June 15, 2017.

I wish the City all the best during this significant period in its history.

Sincerely,

Michael Rock

Exhibit "D"

reg.mtg.-05/23/17
MINUTES 05/24/2017
CITY COUNCIL SPECIAL MEETING
BANNING, CALIFORNIA

A special meeting of the Banning City Council was called to order by Mayor Moyer on May 24, 2017, at 6:30 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Andrade (arrived at 6:32 p.m.)
Councilmember Franklin
Councilmember Peterson
Councilmember Welch
Mayor Moyer

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John Cotti, Interim City Attorney
Rochelle Clayton, ASD/Deputy City Manager
Alex Diaz, Police Chief
Fred Mason, Electric Utility Director
Art Vela, Public Works Director/City Engineer
Marie Calderon, City Clerk
Sonja De La Fuente, Executive Assistant/Deputy City Clerk

PUBLIC COMMENTS

The Mayor called for public comments on items not on the agenda. There were none.

ELECTRIC UTILITY RATES

Electric Utility Director Fred Mason provided a presentation to the Council and public. His presentation provided a history of the utility, organizational chart, electric rate components, cost impacts of regulations and policies, a review of operating costs and revenues, a rate comparison to Southern California Edison, the benefits of having a municipal electric utility, the public benefit charge, a look to the future, and the meter reading schedule. See Exhibit “A” for details.

The Council Members asked various questions relating to the types of energy sources (i.e. natural gas, solar, wind, hydro, etc.), anticipated life of the sources, impacts of legislation on the utility, how to address future rate increases, cost of service analysis, billing, meter reading schedule/staff and smart meters. Electric Utility Director Mason, Public Works Director Vela, City Manager Rock, and Administrative Services Director Clayton provided answers as needed.
Mayor Moyer opened the item for public comments.

Diane Box addressed the Mayor and Council Members regarding the fact that she reviewed six years of bills and does not see uniformity to the bills and was recently billed again for 35 days. She feels that a 55% increase within a nine year period is a lot. She asked who the City’s Utility answers to, if not the Public Utilities Commission. She wanted to know who provides electricity to neighbors like Beaumont, Calimesa and Yucaipa.

Director Mason advised that these neighboring cities are serviced by Southern California Edison.

David Ellis addressed the Mayor and Council Members asking about the upper and lower hydro plants and if we receive revenue from the lower.

Director Vela confirmed. Director Mason explained that it offsets the costs.

Paul Perkins addressed the Mayor and Council Members asking for a time frame for the smart meter installation.

Director Mason explained that it will still take time for the water meters to be installed for the entire smart meter project to be complete.

Mr. Perkins asked if the City could pay overtime to get the meters read. Also, he would like to see all new construction have smart meters installed from the start.

Council Member Peterson announced that he and probably the entire Council thought the smart meters would solve everything. However, they were unaware that the smart meters did not include water and understands Mr. Perkins frustration.

Mr. Perkins stated that he would like to see more planning.

Mayor Moyer announced that once the City gets the AMI system in place, we need electric and water smart meters online for everything to work together.

Jerry Westholder addressed the Mayor and Council Members asking if solar was working at the High School.

Director Mason advised that he believes the school is currently in litigation against the manufacturer.

Mr. Westholder expressed that he would like a forensic audit of the Electric Utility.

Don Smith addressed the Mayor and Council Members stating that he would like to follow-up on Mr. Perkins’ question regarding when Smart Meters would actually be smart. He asked what percentage of $700,000 goes to low income.

Director Mason advised that 40% goes toward low income resident bills.
Ruth Ellis addressed the Mayor and Council Members stating that she would like a simple revenue/expense statement and would like to know where the profit is going.

Council Member Peterson asked if there is a profit.

Director Mason advised there is not. There is $9 million in the capital improvement fund and there is a 10% operating reserve and 30% rate stabilization reserve.

City Manager Rock explained that the capital infrastructure is funded by the ratepayers.

Ms. Ellis asked why depreciation was not included.

Director Mason advised that he removed the depreciation fund in 2007, as he didn’t feel it was fair to have the rate payers fund an account they were not using.

ADJOURNMENT

By common consent the meeting adjourned at 8:47 p.m.

Minutes Prepared by:

__________________________
Sonja De La Fuente, Deputy City Clerk

Approved by:

__________________________
Marie A. Calderon, City Clerk

A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK’S OFFICE.
Electric Utility Rates Study Session

Presented by
Fred Mason, Electric Utility Director

Overview

- History of the Utility
- Utility Organizational Chart
- Electric Rate Components
- Cost Impacts of Regulations & Policies
- Review Operating Costs and Revenues
- Compare rates with Edison
- Benefits of having a Municipal Electric Utility
- Public Benefit Charge
- Looking to the Future
History of the Utility

1913 – The Light & Power Utility (a private company) began providing electricity to the City of Banning

1922 – The City completed the purchase of The Light & Power Utility for a sum of $15,884

The Utility has ownership shares or long term contracts in a number of generating facilities including Palo Verde, San Juan, Hoover, and Heber South & Gould

The Utility currently serves 12,000 customers throughout the City of Banning and had retail sales of nearly 140,000,000 kWh in FY2016
Electric Rate Component %
These electric rate components made up the following percentages of the Utility's total $29 Million operating cost in FY16:

- Generation/Wholesale Power 46%
- Transmission 11%
\[
\text{Total: 57%}
\]
- Distribution System O&M 15%
- Administration 9%
- Bond Debt Service Payment 9%
- General Fund Transfer 10%

Power Generation Costs

- San Juan #3 (Coal) provided 39% electricity (closes 12/2017) FY16 cost: $8,660,220
- Palo Verde (Nuclear) provided 13% electricity FY16 cost: $820,140
- Hoover (Hydro) provided 1% electricity FY16 cost: $49,840
- Heber South & Gould 2 (Geothermal) provided 29% electricity FY16 cost: $2,522,502
- Banning Lower & Middle Units (Hydro) <1% O&M costs for these units is minimal to zero
San Juan Unit 3
Replacement Resources

- Puente Hills (Landfill Gas)
  - 9 MW capacity
  - Will provide 35% of the City's electricity needs
  - Annual costs are projected to be $4,900,000

- Astoria II (Solar)
  - 8 MW capacity
  - Produces electricity when sunlight is available -- projected to provide 12% of the City’s electricity needs
  - Annual costs are projected to be $1,600,000
Renewable Portfolio Standard

- In 2002 SB1078 set a Renewable Portfolio Standard (RPS) goal of 20% by 2017. In July 2007, the Banning City Council revised the City’s RPS and increased the goal from 20% by 2017 to 33% by 2020.
- In 2015 the State passed legislation to increase the RPS mandate to 50% by 2030, and just introduced SB100 to mandate 100% by 2045.
- The City’s intent is to have all new long-term Power Purchase Agreements be for renewable resources.
- With the shutdown of San Juan in December 2017 and the renewable power replacing it...
- Banning will be 77% renewable by 2018 – significantly exceeding the States current mandate of 50% by 2030.
Regulatory Impacts on Rates

- 2002 – SB1078 RPS 20% by 2017 ($1,500,000/year)
- 2006 – AB2021 Reduce consumption by 1% per year thru Energy Efficiency ($300,000/year)
- 2006 – CAISO Increased Reserve percentage; Local RA (Initially $1.3M/year, but reduced to $500,000/year)
- 2006 – SB1 Required PV Solar System rebates; Net Energy Metering (NEM) ($2.5M in rebates; $300,000/year in lost revenue)
- 2006 – AB32 Global Warming Solutions Act; Cap & Trade ($500,000/year). However, this expense will be eliminated with the closure of San Juan Unit 3

Regulatory Impacts (cont.)

- 2006 – SB1368 set emissions standards; restricted Capital Investment in “dirty” resources, requiring the divestiture of San Juan Unit 3
- 2011 – SBX1-2 RPS 33% by 2020 ($1.5M/year energy; $500,000/year transmission)
- 2015 – SB350 RPS 50% by 2030, Double Energy Efficiency in existing buildings ($2M/year energy; $500,000/year transmission)
- 2017 – SB100 RPS 100% by 2045 (cost impact is unknown at this time)
Pending Regulatory Issues

- Energy Storage
- Regionalization of CAISO
- Reduction or elimination of GHG Allowances
- Electric Vehicles
- Electric Vehicle charging infrastructure

Legal Issues

- Proposition 26

Operating Cost Categories

- Net Energy Expense:
  - Cost of all Energy and Capacity resources
  - Wholesale revenues from excess energy sales

- Transmission Expense
  - CAISO – High Voltage (TAC)
  - SCE – Low Voltage (WDAT)

- General Operating Expense
  - Personnel
  - Distribution System O&M
  - Electric Bond Debt Service (CIPs)
Impacts to Operating Costs

- Net Energy Expense:
  - Closure of San Juan (-$8,600,000/year)
  - Replacement Energy (+$6,500,000/year)

- Transmission Expense
  - Import renewables (+$500,000/year by 2020)
  - New Edison WDAT service (+$1.1M in 1st year; add'l $267,000 ea year for next nine years)

- General Operating Expense
  - Refunding Electric Bond Debt (-$500,000/year)
  - Cap & Trade allowances (-$500,000/year)

Impacts to Retail Revenue

- 2008 Total Retail Sales (kWh): 152,981,066
- 2011 Total Retail Sales (kWh): 130,214,132
- Total Annual Loss:
  - kWh: 22,766,934
  - Percentage: 15%
  - Dollars: $3,870,400
- 2016 Total Retail Sales (kWh): 139,950,565

- Over 1MW of Distributed Generation (Solar):
  Revenue loss of over $300,000/year
History of Rates

- **Banning**:
  - No increases from 1996 - 2007
  - 2007 – 19% Increase
  - 2009 – 24% Increase
  - 2013 – 12% Increase
  - 1996 – 2016: Total Increase of 55%
  - Projected Increases thru 2020: None

- **Edison**
  - 1998 – 2016: Total Rate Increase of 84%
  - Projected Increases thru 2020: 12%
Benefits of a Municipal Utility

- Local Control
- Customers are owners
- Citizens have active role in Utility
- Contributions to General Fund
  - $3 Million for police, fire, parks, streets, etc.
  - Cities with Edison only receive 1% Franchise fee
- Generally lower rates than IOUs
- Better Customer Service
- Faster Response Time
Public Benefit Charge

- State mandated non-bypassable charge
- Applies to all electric utility customers
- Assessed at 2.85% of all electric charges
- Funds can only be spent on the following:
  - Renewable Energy
  - Energy Efficiency
  - Research & Development
  - Low Income Assistance

CITY OF BANNING
Public Benefit Programs
Available Rebates

Energy Star Refrigerator
Energy Star Products
Residential Shade Trees
Residential Air Conditioning
Photovoltaics (PV)
Refrigerator Recycling
Commercial Energy Conservation
Residential Weatherization
Commercial Weatherization
Commercial Air Conditioning
Energy Audits
Residential Energy Conservation
Ultra Low-Flow Toilets
Low Income Assistance

For more information or an application for rebates, please call the Banning Electric Utility at 951-949-5324.
Looking to the Future

- Divest of San Juan by 12-31-2017
- Keep rates stabilized through 2020
- Implement Smart Meters / AMI Citywide
- Complete Cost of Service Analysis
- Review rate structure to address NEM
  - Fixed vs Variable expense
  - Eliminate cross-subsidies

May 2017

[Calendar image with a green dot on the 17th]
Questions?
TO: CITY COUNCIL
FROM: Michael Rock, City Manager
PREPARED BY: Sonja De La Fuente, Executive Assistant/Deputy City Clerk
MEETING DATE: June 13, 2017
SUBJECT: Receive and File List of Contracts Approved Under the City Manager’s Signature Authority

RECOMMENDATION:

Receive and file the list of Contracts approved under the City Manager’s signature authority of $25,000 or less.

BACKGROUND:

City Council requested regular reports of contracts signed under the City Manager’s signature authority of $25,000 or less.

ATTACHMENT:

1) List of Contracts approved by City Manager

Reviewed and Approved by:

[Signature]
Michael Rock, City Manager
ATTACHMENT 1
<table>
<thead>
<tr>
<th>Date</th>
<th>Department</th>
<th>Vendor/Contractor</th>
<th>Amount</th>
<th>Services Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>4/4/2017</td>
<td>Public Works</td>
<td>Cicero Engineering, Inc.</td>
<td>$ 4,200</td>
<td>Relocate Playground Equipment</td>
</tr>
<tr>
<td>4/5/2017</td>
<td>Public Works</td>
<td>Nobel Systems, Inc.</td>
<td>$ 25,000</td>
<td>GIS Updates</td>
</tr>
<tr>
<td>5/12/2017</td>
<td>Public Works</td>
<td>Ron Turley Associates</td>
<td>$ 1,400</td>
<td>Fleet Tracking Software License Agreement &amp; Updates</td>
</tr>
<tr>
<td>5/17/2017</td>
<td>Public Works</td>
<td>Golden Bell Products, Inc.</td>
<td>$ 18,450</td>
<td>Wastewater Roach Control</td>
</tr>
<tr>
<td>5/27/2017</td>
<td>Public Works</td>
<td>Landscape Dynamics</td>
<td>$ 22,993</td>
<td>Landscape Maintenace District Redesign</td>
</tr>
</tbody>
</table>


TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Ted Shove, Economic Development Manager

MEETING DATE: June 13, 2017

SUBJECT: Consider Adopting Resolution 2017-56 Approving License Agreement with Long Ear Donkey Rescue

RECOMMENDED ACTION:

It is recommended that City Council consider:

1. Adopting Resolution 2017-56 approving a License Agreement with Long Ear Donkey Rescue for use of grounds located at 2242 Charles Street;

2. Authorizing the Mayor to execute the Agreement; and

3. Authorizing the City Attorney to take such additional, related action that may be necessary.

BACKGROUND:

The managing principal for Long Ear Donkey Rescue, Klaus Duebbert, approached the City in April to use the grounds of the former Animal Shelter located at 2242 Charles Street. Mr. Duebbert indicated that there has been a recent and consistent influx of wild and domesticated donkeys and burros coming into the San Gorgonio Pass region and the existing regional facilities are not equipped to adequately shelter donkeys and burros, especially not several dozen at the same time. Currently, the sheltering is occurring at a private residence and the operation needs to be relocated to a larger facility.
ISSUES/ANALYSIS:

Long Ear Donkey Rescue has requested the use of the former Animal Shelter site to utilize the roughly 16.9 acres that includes perimeter fencing. This facility would house the current operation with some expansion for the Rescue to shelter and rehabilitate the donkeys and burros, and include homing activities.

The License Agreement being considered would cap the number of donkeys and burros to 50, and include the following terms:

- **Term:** two years with two additional one year extensions by mutual agreement;
- **Fee:** $10 per year;
- **Use:** Restricted to grounds only, no use of the facility is authorized. The Rescue would be permitted to bring a portable trailer to house security personnel; and
- **Utilities:** At the sole expense of the Rescue

FISCAL IMPACT:

The License Agreement for the use of land located at 2242 Charles Street is below market rate, however, provides a service to the region not currently available in sheltering donkeys and burros, by a local nonprofit organization. The City would receive in return, grazing of the land and an annual fee of $10 to be deposited into Account 001-0001-331-25-07.

ALTERNATIVES:

1. Approve License Agreement with Long Ear Donkey Rescue.
2. Reject License Agreement and provide staff with alternative direction.

ATTACHMENTS:

1. Resolution 2017-56
2. License Agreement (signed by applicant)

Approved by:

Michael Rock
City Manager
ATTACHMENT 1
RESOLUTION NO. 2017-56

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING LICENSE AGREEMENT FOR LONG EAR DONKEY RESCUE

WHEREAS, in April, 2017, representatives from the Long Ear Donkey Rescue approached the City to use on a short term basis, the former Animal Shelter grounds located at 2242 Charles Street to house displaced donkeys and burros from the San Gorgonio Pass region; and

WHEREAS, the San Gorgonio Pass Area region currently does not maintain the facilities to maintain wild and domesticated donkeys and burros for sheltering, rehabilitation, and rehoming; and

WHEREAS, the Long Ear Donkey Rescue seeks to utilize a City asset on a short term basis for the purpose of addressing and mitigating the donkey and burro displaced population; and

WHEREAS, the former Animal Shelter is currently not in use while the City determines a long range plan for the facility. While vacant, the associated undeveloped land has significant vegetation growth that require City resources to minimize as a fire mitigation function, which could be addressed by the donkeys and burros of the Long Ear Donkey Rescue; and

WHEREAS, the License Agreement will provide a regional amenity and reduce City resources in addressing vegetation and weed overgrowth, both of which generate economic benefits for the community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

1. Resolution No. 2017-56 is approved authorizing a License Agreement with Long Ear Donkey Rescue for use of City property to house and graze donkeys and burros; and

2. The City Council authorizes the Mayor for the City of Banning to execute License Agreement in the form that is approved by the City Attorney.

PASSED, ADOPTED AND APPROVED this 13th day of June, 2017.

______________________________
George Moyer, Mayor
City of Banning, California
APPROVED AS TO FORM AND LEGAL CONTENT:

John Cotti, Interim City Attorney
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk
City of Banning, California

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2017-56 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 13th day of June, 2017.

AYES:
NOES:
ABSENT:
ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California
ATTACHMENT 2
LICENSE AGREEMENT FOR USE OF REAL PROPERTY

This License Agreement for Use of Real Property ("Agreement"), dated as of __________, 2017, is entered into by and between the CITY OF BANNING (the "City"), and LONG EAR DONKEY RESCUE (the "Rescue"), who agree as follows:

RECITALS

This License is made with reference to the following facts and circumstances, which are part of this License and are agreed to be correct:

A. The City is the owner of certain real property located in the City of Banning, County of Riverside, State of California, located at 2242 Charles Street, Banning, CA 92220 (APNs 532-180-008 and 009).

B. The Rescue requests to use the Property to provide donkey and burro sheltering, care, and rescue services to Riverside County. These services are currently unavailable in the San Gorgonio Pass area as local animal shelter services unable to properly house these type of animals. Within the last few years, donkey and burro sheltering services has experienced a sharp increase in demand.

C. The City is agreeable to short term use of the former animal control facility grounds for use as a donkey and burro sheltering facility.

1. REPRESENTATIONS AND WARRANTIES.

A. The City represents and warrants to the Rescue that: (i) City, and its authorized signatory, has full right, power and authority to execute this Agreement; and (ii) City's execution and performance of this Agreement will not violate any laws, ordinances, covenants, mortgages, licenses or other agreements binding on City.

B. The Rescue represents and warrants to the City that: (i) Rescue and its authorized signatory, has full right, power and authority to execute this Agreement; and (ii) Rescue's execution and performance of this Agreement will not violate any laws, ordinances, covenants, mortgages, licenses or other agreements binding on the Rescue.

C. The Rescue has studied and inspected the Property and accepts the same "AS IS" without any express or implied warranties of any kind, other than those warranties contained in subsection (A) above, including any warranties or representations by City as to title or its
condition or fitness for any use.

2. GRANT OF LICENSE; TERM.

A. This License Agreement is not intended to represent permission granted in perpetuity. Either party may terminate this Agreement without cause by giving sixty (60) days' advance written notice to the other of intent to terminate.

B. The initial term of this License Agreement is for two (2) years. The initial term shall also include two one year extensions by mutual agreement of the City and Rescue. The City Manager shall act as the City’s designee for authorizing the annual extensions.

C. If the Rescue continues to occupy the Property after the expiration or termination of this Agreement, holding over will not be considered to operate as a renewal or extension of this Agreement.

D. Notwithstanding any provision in this Agreement to the contrary or any negotiation, correspondence, course of performance or dealing, or other statements or acts by or between the parties, the Rescue's rights in the Property are limited to the rights created by this Agreement, which create only a license in the Property, which is revocable only as set forth expressly herein. The City and Rescue do not by this instrument intend to create a lease, easement or other real property interest. The Rescue has no real property interest in the Property. The Rescue's sole remedy for any breach or threatened breach of this Agreement by the City will be an action for damages. The Rescue's rights are subject to all covenants, restrictions, easements, agreements, reservations and encumbrances upon, and all other conditions of title to the Property. The Rescue's rights under this Agreement are further subject to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions and orders of any local, state or federal agency, now or later having jurisdiction over the Property or Rescue's use of the Property.

E. This license Agreement is specific to the Rescue, and may not be transferred or assigned in any manner, without the prior written approval of the City.

3. FEES.

Upon execution of the Agreement, the Rescue shall pay City an annual fee of Ten Dollars ($10.00). At the anniversary date of the Agreement, the Rescue shall pay an annual License fee of Ten Dollars ($10.00) until such time as Agreement is terminated pursuant to the terms of this Agreement.
4. UTILITIES

The Rescue is responsible for obtaining and paying for all utilities necessary for its use of the Property.

5. USE RESTRICTIONS.

A. The Rescue shall not remove, damage or alter in any way any existing improvements or personal property of the City within the Property without City’s prior written approval, which shall not be unreasonably withheld. The Rescue shall repair any damage or alteration to City’s property to the same condition that existed before the damage or alteration, reasonable wear and tear excepted.

B. The Rescue shall use the Property solely for the purpose of donkey grazing and sheltering.

C. The Rescue may utilize the Property for sheltering of up to 50 donkeys or burros at any one time.

D. The rescue may utilize a portable, recreational trailer for personal use of Rescue personnel to occupy overnight in connection with providing care to the animals and observational purposes. Any utilities used in connection with the recreational trailer shall be temporary in nature.

E. The Rescue shall not be granted access to the buildings and structures on the Property (former animal control shelter) for any reason, as a condition of this agreement.

6. HAZARDOUS MATERIALS.


B. any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or for which liability for misuse arises pursuant to any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree due to its hazardous, toxic or dangerous nature;

C. any petroleum, crude oil or any substance, product, waste, or other material of any nature whatsoever which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles; and

D. polychlorinated biphenyls (PCB), radon gas, urea formaldehyde, asbestos and lead.

7. CONSTRUCTION AND MAINTENANCE.

A. All maintenance costs associated with upkeep of the Property shall be the sole responsibility of the Rescue.

B. All improvements made by the Rescue to the Property pursuant to the terms of this Agreement are subject to and must be in compliance with all applicable codes, ordinances and laws, including the Americans with Disabilities Act, and constructed in conformance with the City’s approved design standards.

C. The Rescue shall not permit any liens to be placed or remain on the Property by virtue of any work performed under this Agreement.

D. The Rescue acknowledges full responsibility for all damages to the Premises during the term of the Agreement.

8. INDEMNIFICATION

To the furthest extent allowed by law, the Rescue shall indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents and volunteers from any and all loss,
liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage, including damage by fire or other casualty) incurred by the City, the Rescue or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of: (a) the occupancy, maintenance and use of the Premises and/or; (b) the performance of this Agreement. The Rescue's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or by the willful misconduct, of the City or any of its officers, officials, employees, agents or volunteers.

Should the Rescue contract any work on the Premises or subcontract any of its obligations under this License, the Rescue shall require each consultant, contractor and subcontractor to indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This requirement shall survive termination or expiration of this Agreement.

9. INSURANCE

Throughout the life of this Agreement, the Rescue shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by the City Manager or his/her designee at any time and in his/her sole discretion. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include insurance for "bodily injury" and "property damage", including premises and operation, completed operations and contractual liability (including, without limitation, indemnity obligations under this Lease) with limits of liability of not less than $1,000,000 per occurrence and $2,000,000 general aggregate for bodily injury and property damage.

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 - Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.
(iv) PROPERTY insurance against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

In the event the Rescue purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

The Rescue shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and the Rescue shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Landlord, its officers, officials, employees, agents and volunteers; or (ii) the Rescue shall provide a financial guarantee, satisfactory to the City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall City, its officers, officials, employees, agents or volunteers be responsible for the payment of any deductibles or self-insured retentions.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice by certified mail, return receipt requested, has been given to the City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, the Rescue shall furnish the City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during this Agreement, the Rescue shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability insurance policy shall be written on an occurrence form and shall name the City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so the Rescues' insurance shall be primary and no contribution shall be required of the City, its officers, officials, employees, agents or volunteers. The coverage shall contain no special limitations on the scope of protection afforded to the City and its officers, officials, employees, agents and volunteers. The coverage(s) shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents and volunteers. Should the Rescue maintain insurance with broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by the Rescue. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to Landlord and its officers, officials, employees, agents and volunteers. The Property insurance policy shall name the City as a loss payee.

The Rescue shall furnish the City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee prior to the City's execution of this
Agreement.

Upon request of the City, the Rescue shall immediately furnish the City with a complete copy of any insurance policy required under this License, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

Any failure to maintain the required insurance shall be sufficient cause for the City to terminate this License. No action taken by the City hereunder shall in any way relieve the Rescue of its responsibilities under this Agreement.

The fact that insurance is obtained by the Rescue shall not be deemed to release or diminish the liability of the Rescue, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify the City and its officers, officials, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Rescue. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the Rescue, its board members, officers, officials, employees, members, agents, volunteers, persons under the supervision of the Rescue, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

The Rescue and its insurers hereby waive all rights of recovery against the City and its officers, officials, employees, agents and volunteers, on account of injury, loss by or damage to the Rescue or its board members, officers, officials, employees, members, agents, volunteers, persons under the supervision of the Rescue, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them, or its property or the property of others under its care, custody and control. The Rescue shall give notice to its insurers that this waiver of subrogation is contained in this Agreement. This requirement shall survive termination or expiration of this Agreement.

If the Rescue should contract any work on the Premises or subcontract any of its obligations under this Agreement, the Rescue shall require each consultant, contractor and subcontractor to provide insurance protection in favor of the City, its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the consultants’, contractors’ or subcontractors’ certificates and endorsements shall be on file with the Rescue and the City prior to the commencement of any work by the consultant, contractor or subcontractor.

10. DAMAGE OR DESTRUCTION.

The City has no obligation to reimburse the Rescue for the loss of or damage to fixtures, equipment or other personal property, except for loss or damage as is caused by the negligence or fault of City or its officers, employees or agents. The Rescue may insure all fixtures,
equipment or other personal property for its own protection if it so desires.

11. SURRENDER OF POSSESSION.

Upon the expiration or termination of this Agreement, the Rescue’s right to occupy the Property and exercise the privileges and rights granted under this Agreement shall cease, and it shall surrender and leave the Property in good condition, normal wear and tear and casualty not caused by Rescue excepted.

12. NOTICES.

Except as otherwise provided, all notices required or permitted to be given under this License must be in writing and addressed to the parties at their respective notice addresses set forth below; provided, that notices to Tenant may also be effectively given in writing and addressed to Tenant at the Premises address. Notices must be given by personal delivery (including by commercial delivery service) or by first-class mail, postage prepaid. Notices will be deemed effectively given, in the case of personal delivery, upon receipt (or if receipt is refused, upon attempted delivery), and in the case of mailing, three (3) days following deposit into the custody of the United States Postal Service. The notice addresses of the parties are as follows:

If to City: City of Banning
99 East Ramsey Street
Banning, California 92220
Attention: City Manager

With a copy to:

John C. Cotti, City Attorney
Jenkins & Hogin, LLP
1230 Rosecrans Avenue, Suite 110
Manhattan Beach, CA 90266
If to Rescue:  Long Ear Donkey Rescue  
Attention: Klaus Duebbert  
2112 W. Westwood Ave  
Banning, CA 92220  

With a copy to:  


Attention:  


13. SEVERABILITY.

If any provision of this Agreement is declared invalid by a court of competent jurisdiction, the remaining terms shall remain effective, provided that elimination of the invalid provision does not materially prejudice either party with regard to its respective rights and obligations; in the event of material prejudice, then the adversely affected party may terminate this Agreement.

14. TAXES.

The Rescue acknowledges that this License may create a possessory interest subject to taxation and that the Rescue may be subject to payment of any and all taxes levied on that possessory interest.

15. RULES AND REGULATIONS.

The Rescue shall at all times comply with all federal, state and local laws, ordinances, rules and regulations which are applicable to its operations and the Property, including all laws, ordinances, rules and regulations adopted after the Effective Date. The Rescue shall display to City, upon request, any permits, licenses or other evidence of compliance with the law.

16. RIGHT OF ENTRY RESERVED.

The City may, at any time, enter the Property for any lawful purpose, so long as the action does not unreasonably interfere with the Rescue’s use or occupancy of the Property.
Exercise of any of the foregoing rights by the City or others pursuant to City's rights shall not constitute an eviction of the Rescue, nor be made the grounds for any abatement of rent or any claim for damages.

17. AGREEMENT AS LICENSE

The Parties intend and mutually agree that this Agreement shall be construed as a mere license by the City to the Rescue to operate within the City Property. This Agreement shall not be construed as a lease, sublease, rental agreement or easement. It is understood and mutually agreed that the Rescue has no interest whatsoever in the City Property.

[Signatures Appear on Following Page]
City of Banning

By: ____________________________

George Moyer
Mayor

Attest:

________________________________

City Clerk

Approved as to Form:

By: ____________________________

John C. Cotti
Interim City Attorney

Long Ear Donkey Rescue

By: ____________________________

Klaus P. Dreibert
(Print Name & Title)

By: ____________________________

Joanie M. Dreibert
(Print Name & Title)

Treasurer of the Board of Directors
Exhibit A Legal Description

REAL PROPERTY AT 2242 CHARLES STREET IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

RIVERSIDE COUNTY ASSESSOR PARCEL NUMBERS

532-180-008 - 8.50 ACRES M/L IN POR LOT 11 MB 008/044 WAVERLY TR

AND

532-180-009 - 8.40 ACRES M/L IN POR LOT 11 MB 008/044 WAVERLY TR
TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Alejandro Diaz, Chief of Police

MEETING DATE: June 13, 2017

SUBJECT: Discuss and Consider Adopting Ordinance 1513 regarding Recreational Vehicles, Recreational Trailers, and Utility Trailer Parking.

RECOMMENDATION:

Staff recommends that the City Council:

1. Conduct a public hearing;

2. Introduce Ordinance No. 1513 (Attachment 1) Adding a New Section 10.12.105 (Recreational Vehicles, Recreation Trailers and Utility Trailers) to Title 10 (Vehicles and Traffic) Chapter 10.12 (Stopping Standing and Parking) Article 1. (Stopping or Parking Prohibitions and Limitations), Prohibiting the Parking of Recreational Vehicles, Recreation Trailers and Recreation trailers and Utility Trailers on the Public Right-of-Way Longer than Four (4) Hours.

JUSTIFICATION:

The intent of the Ordinance 1513 is to regulate parking or storage of recreational vehicles, recreational trailers, and utility trailers. The current ordinance allows parking of said vehicles on City streets for a period not to exceed 72 hours. However, this resets when a vehicle is moved before the 72-hour time frame.

Staff proposes this new Ordinance limiting parking of recreational vehicles, recreational trailers, and utility trailers in the public right of way, to 4 hours. The proposed resolution will help mitigate complaints regarding recreational vehicles, recreational trailers, and utility trailers that are parked on residential streets.
BACKGROUND:

The Police Department has received complaints regarding recreational vehicles, recreational trailers, and utility trailers that are parked on residential streets. While a recreational vehicle can be stored on a single family lot, it may not be parked on dirt. As a practical matter, given the size of lots in Banning, most recreational vehicles, recreational trailers, and utility trailers can be stored on most residential properties.

FISCAL IMPACT:

None

OPTIONS:

1. Approve ordinance 1513.
2. Reject ordinance 1513.
3. Make changes to ordinance 1513 and approve.

STRATEGIC PLAN OBJECTIVE:

This request supports the City's strategic goal related to "Public Health and Safety".

ATTACHMENTS:

1. Attachment 1, Ordinance 1513
2. Attachment 2, Power Point presentation

Approved by:

Michael Rock
City Manager
Attachment 1
ORDINANCE 1513

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ADDING A NEW SECTION 10.12.105 (RECREATIONAL VEHICLES, RECREATIONAL TRAILERS AND UTILITY TRAILERS) TO TITLE 10 (VEHICLES AND TRAFFIC) CHAPTER 10.12 (STOPPING STANDING AND PARKING) ARTICLE I. (STOPPING OR PARKING PROHIBITIONS AND LIMITATIONS), PROHIBITING THE PARKING OF RECREATIONAL VEHICLES, RECREATIONAL TRAILERS AND UTILITY TRAILERS ON THE PUBLIC RIGHT-OF-WAY LONGER THAN FOUR (4) HOURS

WHEREAS, the City of Banning has seen an increase in complaints regarding the parking and/or storage of recreational vehicles, recreational trailers and utility trailers in residential and commercial areas throughout the City; and

WHEREAS, oversized vehicles, such as recreational vehicles, recreational trailers and utility trailers, when parked on residential streets, can create a safety hazard by reducing visibility from driveways and intersections;

WHEREAS, the parking and/or storage of recreational vehicles and trailers causes visual blight in the City.

WHEREAS, it is therefore necessary and in the interest of the health, safety and welfare of the residents of Banning to amend the Banning Municipal Code to adopt restrictions on the parking of recreational vehicles and trailers.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. A new section 10.12.105 is hereby added to Chapter 10.12, entitled Stopping, Standing and Parking, of the Banning Municipal Code regarding Recreational Vehicles, Recreational Trailers and Utility Trailers to read as follows:

"Section 10.12.105 Recreational Vehicles, Recreational Trailers and Utility Trailers

A. No person shall park or leave standing any Recreational Vehicle, Recreational Trailer, Utility Trailer or vehicle dolly regardless of length or width, upon any public street or highway in the City for a period of time exceeding four (4) hours.

B. No person shall place electrical cords, extension cords, hoses, cables or other items across, above or on the parkway or sidewalk from a residential or commercial property to a Recreational Vehicle, Recreational Trailer or Utility trailer parked on a public street."
C. The following definitions will govern the construction of the words and phrases used in this section:

1. "Recreational Vehicle" shall have the meaning set forth in the California Health and Safety Code Section 18010, and shall include house cars as defined by California Vehicle Code 362 and attached trailers.

2. "Trailer" shall mean a trailer, semitrailer, camp trailer, (including tent trailers), un-mounted camper, trailer bus, trailer coach, utility trailer, vehicle dolly or flat trailer as defined in Sections 242, 243, 550, 630, 635 and 636 of the California Vehicle Code, or fifth-wheel travel trailer, as defined in Section 324 of the California Vehicle Code.

3. Successive acts of parking within a one half (1/2) of a mile area shall be presumed to be a single act of parking for purposes of this ordinance.

D. Any person who violates any provision of this section is guilty of an infraction and will be subject to a parking citation, towing or both.

E. The time limitations on standing or parking in this section will not relieve any person from the duty to observe other and more restrictive provisions of the California Vehicle Code or the Banning Municipal Code prohibiting or limiting the standing or parking of vehicles in specified places or at specified times."

SECTION 2. SEVERABILITY

If any section, subsection, clause or phase or portion of this code is for any reason to invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of all other provisions of this ordinance.

The Mayor and City Council hereby declare that it would have passed the ordinance codified in this chapter; and each section, subsection, sentence, clause and phrase or portion thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases or portions thereof be declared invalid or unconstitutional.

SECTION 3. PUBLICATION, EFFECTIVE DATE

The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which time the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) calendar days after its final passage, the City Clerk shall cause a summary of this Ordinance to be published in a newspaper of general circulation.
and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California. The City Clerk shall cause the Ordinance to be printed, published, and circulated.

PASSED, APPROVED AND ADOPTED this ____ day of ________________, 2017.

________________________
George Moyer, Mayor
City of Banning

ATTEST:

________________________
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

________________________
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance 1513 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 13th day of June, 2017, and was duly adopted at a regular meeting of said City Council on the _____ day of __________, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

____________________________
Marie A. Calderon, City Clerk
City of Banning, Banning, California
Attachment 2
Parking Enforcement; Recreational Vehicles, Recreational Trailers, Utility Trailers

Presented by:
Alejandro Diaz
Chief of Police

The goals are to: (1) Identify parking issues, concerns, and needs
(2) Identify implementation strategies to address the stated issues, concerns, and needs.

It is permissible to park a recreational vehicle, recreational trailer, or a utility trailer on City streets, for a time not to exceed 72 hours.
The vehicle could be marked and tagged for 72 hours, which normally causes the owner to move their vehicle, restarting the 72 hour time period.

The Police Department has received numerous complaints regarding recreational vehicles, recreational trailers, and utility trailers that are parked on residential streets.
Some vehicles are registered in other cities and parked on city streets in Banning.

While a recreational vehicle can be stored on a single family lot, it may not be parked on dirt.
Problems with RV and trailer parking include:
expired registration.

Reduced visibility to oncoming traffic
Weeds and other debris collect around vehicles which have been parked for an extended period of time.

Trailers normally do not have a parking brake and are secured with bricks or rocks.
Some residents have complained of the lack of parking in their neighborhoods.

Some residents have also complained about animal trailers and the odor which accompany them.
Citizens oftentimes consider a trailer as blight in their neighborhood.

Lastly, this ordinance will prohibit extension cords from being extended across city sidewalks.
In conclusion

This ordinance will:

- Reduce blight
- Reduce view obstruction
  - Maintain a balance between providing an adequate supply of parking to serve new growth.
  - Prevent vegetation from growing in the streets.
  - Prevent debris from collecting under vehicles.
With predictable regularity, falls continue to be a leading cause of accidents and deaths on the job. Falls include those on the same level (floor, ground), as well as from one level to another (stairs, ladders, roof, etcetera). They can be caused by either or both of two reasons - an unsafe action of an individual (hurrying, overreaching, improper use of equipment, etc.) or unsafe condition of the situation (poor housekeeping, unguarded opening, surface condition, etc.)

**Step With Care**
Good footing is the best way to avoid falls and good housekeeping is the best way to ensure good footing. Watch footing when working on slick flooring and poorly lit areas; where floors are uneven from room to room; and where surfaces are uneven from broken concrete, cracked asphalt or curled rugs. Always look in the direction you are walking. Avoid carrying large objects that may block your view of a safe walking path. Walk slowly on stairs and use handrails to secure your step.

**Cover, Guard, or Mark Cover**
Guard, or mark spills, potholes, and floor openings to warn others of the potential hazard. Except for doorways, protect wall openings and stairways through which someone could fall. The protection should be sufficiently strong and secured to prevent it from being removed.
Stairways
Falls on stairways are caused by running, carrying objects that block your view, failing to use handrails, or just not paying attention. Always use the handrail and never carry any object that obstructs your vision down a stairway.

Prevent Falls
Preventing falls is a matter of common sense. Watch where you're walking. Take careful steps when you walk and choose and use equipment properly.

--
Posted By JStevens to Safety Info by Joanna at 6/05/2017 03:42:00 PM
CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Rochelle Clayton, Deputy City Manager
Jennifer McCoy, Purchasing Manager

MEETING DATE: June 13, 2017


COMMITTEE RECOMMENDATION:

On May 2, 2017, the City of Banning Budget & Finance Committee recommended the proposed revisions amending Chapter 3.24 of the Banning Municipal Code attached as Ordinance No. 1508.

RECOMMENDATION:


2. Direct staff to schedule the second reading and adoption of Ordinance No. 1508 for the June 27, 2017, regular City Council meeting.

JUSTIFICATION:

As policies need to be updated from time to time, staff is requesting that the City Council adopt Ordinance No. 1508 to amend the Banning Municipal Code 3.24 to reflecting the Budget and Finance Committee and Staff’s proposed revisions.

The current code limits the City staffs ability of efficient procurement for commodities and services. Implementation of the amended municipal code, coinciding with the recommended Purchasing Policy will restructure the Purchasing System creating a more streamlined approach, while minimizing compliance issues and project deadline delays for our community.
The proposed code modifications are to revise definitions, expand the Purchasing Officer’s duties, modify fiscal parameters, clarify procurements options and add to the current list of exceptions. Below are cross-referenced sections between the current code and proposed modifications.

**Municipal Code Cross-Reference – 3.24 Purchasing System:**

SECTION 3.24.020 (DEFINITIONS) – To redefine meanings and remove repealed state government code reference;

3.24.030 (PURCHASING OFFICER) – To expand duties;

3.24.040 (TYPES OF CONTRACTS) – Adding clarifying definitions, correcting clerical errors and modifying fiscal parameters;

3.24.070 (FORMAL BID PROCEDURES) – Adding clarifying definitions;

3.24.080 (OPEN MARKET OR INFORMAL BID PROCEDURES) – Conforming specified procedures to reflect incorporated fiscal parameter modifications;

3.24.090 (PROFESSIONAL SERVICES PURCHASING PROCEDURES) – Conforming specified bidding procedures;

3.24.100 (PUBLIC PROJECT BID PROCEDURE) – Modifying fiscal parameters and adding bid procedures;

3.24.130 (EXCEPTIONS TO BIDDING REQUIREMENTS) – Modifying fiscal parameters, clarify procurement options and add to current list of exceptions.

**BACKGROUND:**

During 2014, it was noted that the Purchasing Policy B-23 adopted in August 2001 and the Purchasing Ordinance updated in 2005 and 2007 included contradictory procedures. Both Administrative Policy B-23 and the Purchasing System described in the Banning Municipal Code Chapter 3.24 needed to be updated to resolve any contradictory procedures. Until these items were analyzed and updated, and evaluated in relationship to State (i.e. State Public Contract Code) or Federal codes, and any other best practices in the industry, staff recommended that Purchasing Policy Addendum (Policy B-23(a)) be implemented.

The City has operated in a decentralized purchasing environment wherein each department was responsible for doing the majority of its own purchasing. In June of 2016, one full time Purchasing Manager in the Administrative Department was hired and immediately tasked with the analysis of all Purchasing Policy and Procedures. The procurement responsibilities have progressively returned to the Purchasing
Division to allow for a streamlined process in accordance with best practices and compliance of the State and City Codes.

OPTIONS:

1. Approve a Centralized Purchasing Environment through the adoption of Ordinance No. 1508 which will provide the City of Banning with the following benefits:
   a. Promote standardization efforts throughout the organization, which increases efficiency.
   b. Promote uniformity in compliance and implementing State, Local and Federal purchasing laws and requirement.
   c. Maximize savings through streamline procurement processes, improved vendor relations through fair competitive procedures and appropriate cost negotiations.
   d. Increase organizations adherence to Procurement legalities by staying informed of present law and industry changes.

2. Reject Ordinance No. 1508, which will decrease the system efficiency across the organization and reduce the projected monetary savings.

FISCAL IMPACT:

Based on an annual projection of department purchasing requests the immediate fiscal impact proposed through the enhancement of the procurement policy and minor monetary authority adjustments allows for an overall estimated annual savings of $65,000.

ATTACHMENTS:

1. Ordinance No. 1508 – Chapter 3.24 Purchasing System (Clean)
2. Ordinance No. 1508 – Chapter 3.24 Purchasing System (Modifications)

Michael Rock
City Manager
THIS PAGE LEFT BLANK
INTENTIONALLY
ATTACHMENT 1
ORDINANCE NO. 1508

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, AMENDING CHAPTER 3.24 OF THE BANNING MUNICIPAL CODE TO REVISE DEFINITIONS, EXPAND THE PURCHASING OFFICER’S DUTIES, MODIFY FISCAL PARAMETERS, CLARIFY PROCUREMENT OPTIONS AND ADD TO THE CURRENT LIST OF EXCEPTIONS.

The City Council of the City of Banning does hereby ordain as follows:

SECTION 1: Section 3.24.020 of Chapter 3.24, entitled “Definitions” is amended to read as follows:


Unless otherwise indicated, the following definitions shall apply to all provisions of this chapter:

"City manager" means the city manager or person designated by the city manager to perform all or some of the duties prescribed in this chapter.

"Contract" means a written agreement between two or more competent individuals and/or corporate entities to perform or not perform a specific act(s) for compensation. Contract includes all types of government agreements, regardless of what they may be titled for the procurement of supplies, services, or construction.

"Cooperative purchase agreement" means the purchase of goods or services utilizing a form of intergovernmental cooperative purchasing in which one government agency or jurisdiction performs the solicitation and award process for several agencies or jurisdictions, but separate contracts or purchase orders are executed between each participating agency and the vendor.

"Emergency" for purposes of public projects shall have that meaning provided in Section 1102 of the Public Contract Code, which reads: "Emergency," as used in this Code, means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. "Emergency," for all other purposes, means a public calamity or disaster; or, an immediate procurement is essential to protect the public health or safety, or to avoid interruption of essential city operations.

"Local business" means a business firm with fixed offices or distribution points located within the boundaries of the city, with a City of Banning street address. Post office box numbers or residential addresses may not be used solely to establish status as a local business. The business must have a valid City of Banning business license prior to the commencement of the contract.

“Piggy-Back Agreement” means the form of intergovernmental cooperative purchasing in which a public agency requests competitive bids, enters into a contract and arranges, as part of the contract for other public agencies to purchase from the selected vendor under the same terms and conditions as itself. This process eliminates
the need to competitively bid the particular item again. May only be used if the public agency received the competitive bids within two years prior to the award of contract under piggy-back.

"Professional services" mean all services performed by persons in a professional occupation, including but not limited to, consulting and performance services for accounting, auditing, computer hardware and software support, engineering, architectural, planning, environmental, redevelopment, financial, economic, personnel, social services, legal, management, communication and other similar professional functions which may be necessary for the operation of the city.

"Public facility" means any city-owned or operated property, infrastructure or facility.

"Public project," as defined in Section 20161 of the Public Contract Code, means: (1) a project for the erection, improvement, painting, or repair of public buildings and works; (2) work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow; (3) street or sewer work except maintenance or repair; (4) furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

"Purchase" means buy, lease or rent supplies, equipment or services.

"Purchase order" means a formal document authorizing the purchase of supplies, equipment, or services from a vendor, and executed by the purchasing officer as a stand-alone agreement or pursuant to the authority granted in a contract. It is the vendor's authorization to deliver and invoice goods as specified. It is used to communicate to the vendor the city's terms and conditions and authorizes an encumbrance of city funds.

"Purchasing Officer" means the city manager or his or her designee(s). Initially, the city manager designates the Purchasing Manager to act as the purchasing officer. Pursuant to this section, the city manager may change his or her designation at any time.

"Requisition" means an internal document used to communicate to the purchasing officer and coordinate requests for supplies, equipment and services.

"Sole source" means the goods, supplies or services are available from only one vendor and there is no permissible substitute.

SECTION 2: Section 3.24.030 of Chapter 3.24, entitled "Purchasing Officer" is amended to read as follows:

"3.24.030 - Purchasing officer.

There is created the position of purchasing officer, who shall be appointed by the city manager. The purchasing officer shall have the general supervision of all purchasing functions of the city. The duties of the purchasing officer may be combined with those of any other office or position. Subject to the supervision of the city manager, the purchasing officer shall have the authority to:

A. Negotiate contracts on behalf of the city for the purchase of supplies, equipment and services in accordance with this chapter, which contracts will be subject to
award by the city council or city manager and execution by the mayor or city manager;

B. Negotiate and execute purchase orders on behalf of the city, for the purchase of supplies, equipment and services required by the city in accordance with this chapter;

C. Prepare, and implement city council approved policies and procedures governing the purchase, bidding, contracting, storing, distribution and disposal of supplies, services and equipment for the city;

D. Prescribe and maintain such forms as may be reasonably necessary to the implementation of this chapter and any other policies and procedures approved by the city manager consistent with this chapter;

E. Review the working details, drawings, plans and specifications pertaining to procurement compliance and bidding processes for any projects or purchases requiring such review in this chapter;

F. Inspect or supervise the inspection of purchased supplies, services and equipment to ensure conformity with any specifications established or required by the city;

G. Transfer among departments any supplies, services and equipment not needed by one such department, but which are necessary for the operations of one or more other departments;

H. Sell any supplies and equipment not needed for public use or that may become unsuitable for their intended use;

I. Develop and maintain any bidder's list, contractor's list or vendor's catalog file necessary to the operation of this chapter and any other policies and procedures approved by the city manager consistent with this chapter;

J. Approve and confirm emergency purchases;

K. Identity and pursue cooperative agreements with the State of California, Counties, other Cities and other governmental agencies and organizations in order to obtain cost savings for the City;

L. Be authorized in the absence of the Administrative Services Director to allow a budget over-ride for purposes of timely completion of a purchase transaction as long as such action would not put the fund over-budget when reasonably projected to the end of the fiscal year, and when the requesting department has submitted a Budget Transfer Form."

SECTION 3: Section 3.24.040 of Chapter 3.24, entitled "Types of Contracts" is amended to read as follows:

"3.24.040 - Types of contracts.

A. Formal contracts shall be used for the purchase of goods, equipment, or services whenever those goods, equipment, or services are sought by way of a request for proposal or when the purchasing officer determines that, due to the complexity, risk,
or monetary value of the goods, equipment, or services sought, a formal agreement with detailed procedural and substantive protections of the city's interests is necessary.

B. Informal letter contracts shall be used when the purchasing officer determines that due to a lack of complexity, risk, or monetary value, a purchase of services need not include the detailed procedural and substantive protections of the city's interests.

C. Purchase orders are formal, contractual documents requesting the delivery of specific goods, equipment, or services and promising payment therefor. They are issued by the purchasing officer and must be used in conjunction with formal contracts or else as provided in this chapter as stand-alone documents for all city purchases with the exception of purchases made pursuant to short form purchase orders or other methods consistent with this chapter and the policies and procedures implementing this chapter.

D. Open purchase orders are formal agreements whereby the city contracts with a vendor to provide services, tools and equipment or supplies on a just-in-time basis. They are encumbered purchase orders with a maximum dollar amount that may be purchased per transaction and a maximum dollar amount that can be spent through the term of the contract. They must be used in conjunction with a formal contract.

E. Blanket Purchase Orders (BPO) are contractual documents and should be issued for recurring purchases, such as office supplies, not valid for longer than one year, and shall always expire at the end of the fiscal year in which they were initiated.

F. Short form purchase orders are formal documents that provide a method whereby department directors, or designee may purchase non-repetitive, low volume, low-cost goods or services valued at less than five thousand dollars."

SECTION 4: Section 3.24.070 of Chapter 3.24, entitled “Formal bid procedures” is amended to read as follows:


B. Request for Proposal/Qualifications.

1. Notice Inviting Request for Proposals/Qualifications. A notice inviting request for proposals/qualifications shall: (a) describe the supplies, services or equipment to be purchased; (b) state where the complete request for proposal may be obtained; (c) state the date, time and place for receipt of the proposals; and (d) include any other information required by state or local law, as determined by the city attorney. Notice inviting proposals shall be published at least ten days prior to the date set for receipt of the proposals. Notice shall be published at least once in a newspaper of general circulation printed and published in the city, or, if there is no such newspaper, in a newspaper of general circulation which is circulated in the city, and shall be posted at City Hall.

2. Proprietary Products or Services. Upon approval of the purchasing officer, if the director of the using department certifies that, to the best of his or her knowledge, the product or service is proprietary in nature and can be
obtained only from a limited number of vendors or contractors, and that no equivalent products or services are available, the notice inviting proposals may be sent exclusively to such vendor(s) or contractor(s).

3. Opening of Request for Proposals/Qualifications. The purchasing officer shall open the proposals after the date and time as set forth in the notice inviting proposals/qualifications. The purchasing officer and the using department director or his or her designee will evaluate the proposals based on the vendor's understanding of the work required by the city, demonstrated competence and professional qualifications necessary for performance of the work and other factors that result in the best interest of the city. The proposal evaluation scores shall be a part of the final record.

4. Acceptance of Proposals/Qualifications. Contracts in the amount of twenty-five thousand dollars or less will be awarded by the city manager. Contracts for more than twenty-five thousand dollars will be awarded by the city council. The city manager or the city council may reject any or all proposals received, and may waive any minor irregularities in each proposal received.

5. Failure to Enter Into Contract. A notice of award letter shall be sent to any successful proposer required to execute a contract with the city. Failure to enter into a contract or refusal to accept a purchase order within ten calendar days after the notice of award shall result in the forfeiture of the awardee's bid bond if any. Award shall thereafter be made to the next lowest responsible, responsive proposer.

C. All purchases for services to any public facility must have a duly executed contract, in addition to a purchase order."

SECTION 5: Section 3.24.080 of Chapter 3.24, entitled "Open Market or Informal Bid Procedures" is amended to read as follows:

"3.24.080 - Open market or informal bid procedures.

Purchases of supplies, equipment and services (other than public projects) with a value in the amount of twenty-five thousand dollars or less may be made in the open market to the bidder offering the most advantageous quote, using an informal procedure pursuant to the requirements prescribed in subsections A through E of this section, provided, however, all bidding may be dispensed with for purchases of supplies, equipment and services having a total estimated value of five thousand dollars or less:

A. Open market purchases shall, wherever possible, be based on at least three quotes, and shall be awarded to the vendor offering the most advantageous quote to the city after consideration of price, quality, durability, servicing, delivery time, standardization, and other factors.

B. The purchasing officer shall solicit quotes by written and/or electronic request to prospective vendors, or by telephone, or by public notice posted on a public bulletin board at the city offices.

C. All purchases for services to any public facility for five thousand dollars or less may be made by purchase order.
D. All purchases for services to any public facility for more than five thousand dollars, must have a duly executed contract, in addition to a purchase order.

E. Purchase of goods, supplies and equipment with a value of five thousand dollars or less may be made by department personnel with the approval of the department director as provided in this chapter and in administrative policies and procedures implementing this chapter."

SECTION 6: Section 3.24.090 of Chapter 3.24, entitled "Professional Services Purchasing Procedures" is amended to read as follows:

"3.24.090 - Professional services purchasing procedures.

Contracts for professional services shall be awarded to the contractor who will best serve the interests of the city, taking into account demonstrated competence, professional qualifications and suitability for the project in general. The city may consider cost of professional services, if the purchasing officer determines it to be a relevant factor under the circumstances. Procurement of professional services will be made pursuant to the requirements prescribed in subsections A through D of this section:

A. Professional services contracts of twenty-five thousand dollars or less shall be awarded by the city manager, upon recommendation of the director of the department responsible for the project. Wherever possible, procurement of professional services shall be pursuant to the open market or informal bidding procedure as prescribed in Section 3.24.080 of this chapter.

B. Professional services contracts of more than twenty-five thousand dollars shall, except as otherwise provided in this chapter, be awarded by the city council pursuant to the formal bidding procedure as prescribed in Section 3.24.070(B) of this chapter.

C. In the event that it is determined by the city manager, that it would be in the best interest of the city for services to be provided by a specific consultant, a contract may be awarded based on negotiations with the specific consultant. Contracts in the amount of twenty-five thousand dollars or less will be awarded by the city manager and contracts for more than twenty-five thousand dollars will awarded by the city council.

D. All procurement of professional services will be made by a duly executed professional services agreement, in addition to a purchase order.

E. Five-Year Term Limitation. No professional service contracts, general maintenance contracts, or other contract work contracts shall extend for a period of more than five years, including any authorized extensions."

SECTION 7: Section 3.24.100 of Chapter 3.24, entitled "Public Project Bid Procedure" is amended to read as follows:

"3.24.100 - Public project bid procedure.

Notwithstanding any provision of this chapter to the contrary, all public project contracts for more than five thousand dollars must be contracted for and let by the
procedures as set forth in Division 2, Part 3, Chapter 1, Article 4 of the Public Contract Code (commencing at Section 20160). This includes the purchase of supplies or materials for any such project, including maintenance or repair of streets or sewers. As permissible by the Public Contract Code, the City will consider Design-Build as an alternate method of procurement for public projects. Award of all public projects over twenty-five thousand dollars pursuant to this section will be made by the City Council.”

SECTION 8: Section 3.24.130 of Chapter 3.24, entitled “Exceptions to the Bidding Requirements,” is amended to read as follows:

“3.24.130 - Exceptions to bidding requirements.

Notwithstanding any provision of this chapter to the contrary, the competitive bidding procedures and requirements may be dispensed within any of the following instances:

A. When an "Emergency" has been determined to exist pursuant to the official policies and procedures implementing this chapter;

B. When the commodity is a sole source;

C. When the price is less than five thousand dollars;

D. When the purchasing officer determines the commodity can be procured using a cooperative purchase agreement (e.g., through NJPA, NIPA or GSA) and, the price to the city is equal to or better than the price to that public agency;

E. When the purchasing officer identifies a Piggyback Agreement being prepared by and processed through another local, state, or federal governmental agency. Under such circumstances, the Purchasing Officer may join into an existing written purchase contract obtained within the last 24 months through a competitive bidding process prepared by and awarded by another local, state or federal governmental agency. City Council consent is required for such arrangements where the estimated value of the supplies is $25,000 or more.

F. When the commodity being purchased is gasoline, diesel or aviation fuel, to include gasoline credit card purchases;

G. When the city council determines, in accordance with applicable law, that a competitive market does not exist, and no competitive advantage will be gained by the bidding process;

H. When no bids are received on formal or informal bidding procedures;

I. Advertisement and Notices when meeting the criteria of Public Contracts Code § 20169;

J. When purchasing City Debt Services;

K. When the service or commodity being purchased is conference registrations, educational seminars and training, subscriptions and membership dues;

L. For insurance premiums (worker's compensation, general liability, etc.);

M. When issuing payments to Department of Water Resources and related expenses (State Water Contractors, Inc., etc.), and other governmental units;
N. For payroll disbursements, payroll checks, deductions, deposits and tax payments that are supported by a payroll report; medical payments and loans;
O. When paying for permitting and other regulatory fees (construction permits, LAFCO payment, etc.);
P. For Petty Cash Replenishment, refunds and travel expenses/advances;
Q. When purchasing Postage/Delivery/Messenger Services;
R. For Professional Legal and Human Resources Confidential Consultant Services;
S. For real property, easement acquisition and rental property;
T. When purchasing/renewing software license maintenance;
U. When purchasing Trade Circulars, Books or CD's;
V. When paying Utility Bills (phone, gas, electric, etc.)."

SECTION 9. Severability. If any sections, subsections, sentences, phrases, or portions of this Ordinance are for any reason, held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Banning hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 10. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Banning's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 11. This Ordinance will become effective on the thirty-first (31st) day following its passage and adoption.
PASSED, APPROVED, AND ADOPTED this 13th day of June, 2017.

________________________
George Moyer, Mayor
City of Banning

ATTEST:

________________________
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

________________________
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1508 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ___ day of ___________, 2017, and was duly adopted at a regular meeting of said City Council on the ___ day of ___________, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

________________________
Marie A. Calderon, City Clerk
City of Banning, Banning, California
ATTACHMENT 2
ORDINANCE NO. 1508

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA,
AMENDING CHAPTER 3.24 OF THE BANNING MUNICIPAL CODE
TO REVISE DEFINITIONS, EXPAND THE PURCHASING OFFICER’S
DUTIES, MODIFY FISCAL PARAMETERS, CLARIFY
PROCUREMENT OPTIONS AND ADD TO THE CURRENT LIST OF
EXCEPTIONS.

The City Council of the City of Banning does hereby ordain as follows:

SECTION 1: Section 3.24.020 of Chapter 3.24, entitled “Definitions” is amended to
read as follows:


Unless otherwise indicated, the following definitions shall apply to all provisions of
this chapter:

"City manager" means the city manager or person designated by the city manager
to perform all or some of the duties prescribed in this chapter.

"Contract" means a written agreement between two or more competent individuals
and/or corporate entities to perform or not perform a specific act(s) for compensation.
Contract includes all types of government agreements, regardless of what they may be
titled for the procurement of supplies, services, or construction, any type of legally
recognized agreement to provide goods or services, including formal contractual
agreements and informal letter contracts, but excluding purchase orders as defined by
this section.

"Cooperative purchase agreement" means the purchase of goods or services
utilizing a form of intergovernmental cooperative purchasing in which one government
agency or jurisdiction performs the solicitation and award process for several agencies
or jurisdictions, but separate contracts or purchase orders are executed between each
participating agency and the vendor. The procedures of California Government Code
Section 10324 authorize the state to make purchases on behalf of the city when it is to
the city's advantage. Other California municipalities invite participation on purchases
using the increased volume to result in better pricing for all participants.

"Emergency" for purposes of public projects shall have that meaning provided in
Section 1102 of the Public Contract Code, which reads: "Emergency," as used in this
Code, means a sudden, unexpected occurrence that poses a clear and imminent
danger, requiring immediate action to prevent or mitigate the loss or impairment of life,
health, property, or essential public services. "Emergency," for all other purposes,
means a public calamity or disaster; or, an immediate procurement is essential to protect
the public health or safety, or to avoid interruption of essential city operations.

"Local business" means a business firm with fixed offices or distribution points
located within the boundaries of the city, with a City of Banning street address. Post
office box numbers or residential addresses may not be used solely to establish status
as a local business. The business must have a valid City of Banning business license prior to the commencement of the contract.

"Piggy-Back Agreement" means the form of intergovernmental cooperative purchasing in which a public agency requests competitive bids, enters into a contract and arranges, as part of the contract for other public agencies to purchase from the selected vendor under the same terms and conditions as itself. This process eliminates the need to competitively bid the particular item again. May only be used if the public agency received the competitive bids within two years prior to the award of contract under piggy-back.

"Professional services" mean all services performed by persons in a professional occupation, including but not limited to, consulting and performance services for accounting, auditing, computer hardware and software support, engineering, architectural, planning, environmental, redevelopment, financial, economic, personnel, social services, legal, management, communication and other similar professional functions which may be necessary for the operation of the city.

"Public facility" means any city-owned or operated property, infrastructure or facility.

"Public project," as defined in Section 20161 of the Public Contract Code, means: (1) a project for the erection, improvement, painting, or repair of public buildings and works; (2) work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow; (3) street or sewer work except maintenance or repair; (4) furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

"Purchase" means buy, lease or rent supplies, equipment or services.

"Purchase order" means a formal document authorizing the purchase of supplies, equipment, or services from a vendor, and executed by the purchasing officer as a stand-alone agreement or pursuant to the authority granted in a contract. It is the vendor's authorization to deliver and invoice goods as specified. It is used to communicate to the vendor the city's terms and conditions and authorizes an encumbrance of city funds.

"Purchasing Officer" means the city manager or his or her designee(s). Initially, the city manager designates the Purchasing Manager to act as the purchasing officer. Pursuant to this section, the city manager may change his or her designation at any time.

"Requisition" means an internal document used to communicate to the purchasing officer and coordinate requests for supplies, equipment and services.

"Sole source" means the goods, supplies or services are available from only one vendor and there is no permissible substitute."

SECTION 2: Section 3.24.030 of Chapter 3.24, entitled "Purchasing Officer" is amended to read as follows:

"3.24.030 - Purchasing officer.
There is created the position of purchasing officer, who shall be appointed by the city manager. The purchasing officer shall have the general supervision of all purchasing functions of the city. The duties of the purchasing officer may be combined with those of any other office or position. Subject to the supervision of the city manager, the purchasing officer shall have the authority to:

A. Negotiate contracts on behalf of the city for the purchase of supplies, equipment and services in accordance with this chapter, which contracts will be subject to award by the city council or city manager and execution by the mayor or city manager;

B. Negotiate and execute purchase orders on behalf of the city, for the purchase of supplies, equipment and services required by the city in accordance with this chapter;

C. Prepare, and implement city council approved policies and procedures governing the purchase, bidding, contracting, storing, distribution and disposal of supplies, services and equipment for the city;

D. Prescribe and maintain such forms as may be reasonably necessary to the implementation of this chapter and any other policies and procedures approved by the city manager consistent with this chapter;

E. Review the working details, drawings, plans and specifications pertaining to procurement compliance and bidding processes for any projects or purchases requiring such review in this chapter;

F. Inspect or supervise the inspection of purchased supplies, services and equipment to ensure conformity with any specifications established or required by the city;

G. Transfer among departments any supplies, services and equipment not needed by one such department, but which are necessary for the operations of one or more other departments;

H. Sell any supplies and equipment not needed for public use or that may become unsuitable for their intended use;

I. Develop and maintain any bidder's list, contractor's list or vendor's catalog file necessary to the operation of this chapter and any other policies and procedures approved by the city manager consistent with this chapter;

J. Approve and confirm emergency purchases;

K. Identity and pursue cooperative agreements with the State of California, Counties, other Cities and other governmental agencies and organizations in order to obtain cost savings for the City;

L. Be authorized in the absence of the Administrative Services Director to allow a budget over-ride for purposes of timely completion of a purchase transaction as long as such action would not put the fund over-budget when reasonably projected to the end of the fiscal year, and when the requesting department has submitted a Budget Transfer Form."
SECTION 3: Section 3.24.040 of Chapter 3.24, entitled "Types of Contracts" is amended to read as follows:

"3.24.040 - Types of contracts.

A. Formal contracts shall be used for the purchase of goods, equipment, or services whenever those goods, equipment, or services are sought by way of a request for proposal or when the purchasing officer determines that, due to the complexity, risk, or monetary value of the goods, equipment, or services sought, a formal agreement with detailed procedural and substantive protections of the city's interests is necessary.

B. Informal letter contracts shall be used when the purchasing officer determines that due to a lack of complexity, risk, or monetary value, a purchase of services need not include the detailed procedural and substantive protections of the city's interests.

C. Purchase orders are formal, contractual documents requesting the delivery of specific goods, equipment, or services and promising payment therefor. They are issued by the purchasing officer and must be used in conjunction with formal contracts or else as provided in this chapter as stand-alone documents for all city purchases with the exception of purchases made pursuant to short form purchase orders or other methods consistent with this chapter and the policies and procedures implementing this chapter.

D. Open purchase orders are formal agreements whereby the city contracts with a vendor to provide services, tools and equipment or supplies on a just-in-time basis. They are encumbered purchase orders with a maximum dollar amount that may be purchased per transaction and a maximum dollar amount that can be spent through the term of the contract. They must be used in conjunction with a formal contract.

E. Blanket Purchase Orders (BPO) are contractual documents and should be issued for recurring purchases, such as office supplies, not valid for longer than one year, and shall always expire at the end of the fiscal year in which they were initiated.

F. Short form purchase orders are formal documents that provide a method whereby department directors, or designee may purchase non repetitive, low volume, low-cost goods or services valued at less than one-five thousand dollars."

SECTION 4: Section 3.24.070 of Chapter 3.24, entitled "Formal bid procedures" is amended to read as follows:


B. Request for Proposal/Qualifications.

1. Notice Inviting Request for Proposals/Qualifications. A notice inviting request for proposals/qualifications shall: (a) describe the supplies, services
or equipment to be purchased; (b) state where the complete request for proposal may be obtained; (c) state the date, time and place for receipt of the proposals; and (d) include any other information required by state or local law, as determined by the city attorney. Notice inviting proposals shall be published at least ten days prior to the date set for receipt of the proposals. Notice shall be published at least once in a newspaper of general circulation printed and published in the city, or, if there is no such newspaper, in a newspaper of general circulation which is circulated in the city, and shall be posted at City Hall.

2. Proprietary Products or Services. Upon approval of the purchasing officer, if the director of the using department certifies that, to the best of his or her knowledge, the product or service is proprietary in nature and can be obtained only from a limited number of vendors or contractors, and that no equivalent products or services are available, the notice inviting proposals may be sent exclusively to such vendor(s) or contractor(s).

3. Opening of Request for Proposals/Qualifications. The purchasing officer shall open the proposals after the date and time as set forth in the notice inviting proposals/qualifications. The purchasing officer and the using department director or his or her designee will evaluate the proposals based on the vendor's understanding of the work required by the city, demonstrated competence and professional qualifications necessary for performance of the work and other factors that result in the best interest of the city. The proposal evaluation scores shall be a part of the final record.

4. Acceptance of Proposals/Qualifications. Contracts in the amount of twenty-five thousand dollars or less will be awarded by the city manager. Contracts for more than twenty-five thousand dollars will be awarded by the city council. The city manager or the city council may reject any or all proposals received, and may waive any minor irregularities in each proposal received.

5. Failure to Enter Into Contract. A notice of award letter shall be sent to any successful proposer required to execute a contract with the city. Failure to enter into a contract or refusal to accept a purchase order within ten calendar days after the notice of award shall result in the forfeiture of the awardee's bid bond if any. Award shall thereafter be made to the next lowest responsible, responsive proposer.

C. All purchases for services to any public facility must have a duly executed contract, in addition to a purchase order."

SECTION 5: Section 3.24.080 of Chapter 3.24, entitled “Open Market or Informal Bid Procedures” is amended to read as follows:

"3.24.080 - Open market or informal bid procedures.

Purchases of supplies, equipment and services (other than professional services and public projects) with a value in the amount of twenty-five thousand dollars or less may be made in the open market to the bidder offering the most advantageous quote, using an informal procedure pursuant to the requirements prescribed in subsections A
through E of this section, provided, however, all bidding may be dispensed with for purchases of supplies, equipment and services having a total estimated value of one five thousand dollars or less:

A. Open market purchases shall, wherever possible, be based on at least three quotes, and shall be awarded to the vendor offering the most advantageous quote to the city after consideration of price, quality, durability, servicing, delivery time, standardization, and other factors.

B. The purchasing officer shall solicit quotes by written and/or electronic request to prospective vendors, or by telephone, or by public notice posted on a public bulletin board at the city offices.

C. All purchases for services to any public facility for one five thousand dollars or less may be made by purchase order.

D. All purchases for services to any public facility for more than one five thousand dollars, but less than five thousand dollars must have a duly executed contract, in addition to a purchase order.

E. Purchase of goods, supplies and equipment with a value of one five thousand dollars or less may be made by department personnel with the approval of the department director as provided in this chapter and in administrative policies and procedures implementing this chapter.

SECTION 6: Section 3.24.090 of Chapter 3.24, entitled "Professional Services Purchasing Procedures" is amended to read as follows:

"3.24.090 - Professional services purchasing procedures.

Contracts for professional services shall be awarded to the contractor who will best serve the interests of the city, taking into account demonstrated competence, professional qualifications and suitability for the project in general. The city may consider cost of professional services, if the purchasing officer determines it to be a relevant factor under the circumstances. Procurement of professional services will be made pursuant to the requirements prescribed in subsections A through D of this section:

A. Professional services contracts of twenty-five thousand dollars or less shall be awarded by the city manager, upon recommendation of the director of the department responsible for the project. Wherever possible, procurement of professional services shall be pursuant to the open market or informal formal bidding procedure as prescribed in Section 3.24.070(B) 3.24.080 of this chapter.

B. Professional services contracts of more than twenty-five thousand dollars shall, except as otherwise provided in this chapter, be awarded by the city council pursuant to the formal bidding procedure as prescribed in Section 3.24.070(B) of this chapter.

C. In the event that it is determined by the city manager, that it would be in the best interest of the city for services to be provided by a specific consultant, a contract may be awarded based on negotiations with the specific consultant. Contracts
in the amount of twenty-five thousand dollars or less will be awarded by the city manager and contracts for more than twenty-five thousand dollars will be awarded by the city council.

D. All procurement of professional services will be made by a duly executed professional services agreement, in addition to a purchase order.

E. Five-Year Term Limitation. No professional service contracts, general maintenance contracts, or other contract work contracts shall extend for a period of more than five years, including any authorized extensions."

SECTION 7: Section 3.24.100 of Chapter 3.24, entitled "Public Project Bid Procedure" is amended to read as follows:

"3.24.100 - Public project bid procedure.

Notwithstanding any provision of this chapter to the contrary, all public project contracts for more than five thousand dollars must be contracted for and let by the procedures as set forth in Division 2, Part 3, Chapter 1, Article 4 of the Public Contract Code (commencing at Section 20160). This includes the purchase of supplies or materials for any such project, including maintenance or repair of streets or sewers. As permissible by the Public Contract Code, the City will consider Design-Build as an alternate method of procurement for public projects. Award of all public projects over twenty-five thousand dollars pursuant to this section will be made by the City Council."

SECTION 8: Section 3.24.130 of Chapter 3.24, entitled "Exceptions to the Bidding Requirements," is amended to read as follows:

"3.24.130 - Exceptions to bidding requirements.

Notwithstanding any provision of this chapter to the contrary, the competitive bidding procedures and requirements may be dispensed within any of the following instances:

A. When an "Emergency" has been determined to exist pursuant to the official policies and procedures implementing this chapter;

B. When the commodity is a sole source;

C. When the price is less than one five thousand dollars;

D. When the purchasing officer determines the commodity can be procured using a cooperative purchase agreement (e.g., through GMAS NJPA, NIPA or GSA) and, the price to the city is equal to or better than the price to that public agency;

E. When the purchasing officer identifies a Piggyback Agreement being prepared by and processed through another local, state, or federal governmental agency. Under such circumstances, the Purchasing Officer may join into an existing written purchase contract obtained within the last 24 months through a competitive bidding process prepared by and awarded by another local, state or federal governmental agency. City Council consent is required for such arrangements where the estimated value of the supplies is $25,000 or more."
F. When the commodity being purchased is gasoline, diesel or aviation fuel, to include gasoline credit card purchases;

G. When the city council determines, in accordance with applicable law, that a competitive market does not exist, and no competitive advantage will be gained by the bidding process;

H. When no bids are received on formal or informal bidding procedures;

I. Advertisement and Notices when meeting the criteria of Public Contracts Code § 20169;

J. When purchasing City Debt Services;

K. When the service or commodity being purchased is conference registrations, educational seminars and training, subscriptions and membership dues;

L. For insurance premiums (worker’s compensation, general liability, etc.);

M. When issuing payments to Department of Water Resources and related expenses (State Water Contractors, Inc., etc.), and other governmental units;

N. For payroll disbursements, payroll checks, deductions, deposits and tax payments that are supported by a payroll report; medical payments and loans;

O. When paying for permitting and other regulatory fees (construction permits, LAFCO payment, etc.);

P. For Petty Cash Replenishment, refunds and travel expenses/advances;

Q. When purchasing Postage/Delivery/Messenger Services;

R. For Professional Legal and Human Resources Confidential Consultant Services;

S. For real property, easement acquisition and rental property;

T. When purchasing/renewing software license maintenance;

U. When purchasing Trade Circulars, Books or CD’s;

V. When paying Utility Bills (phone, gas, electric, etc.)."

SECTION 9. Severability. If any sections, subsections, sentences, phrases, or portions of this Ordinance are for any reason, held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Banning hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 10. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Banning’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.
SECTION 11. This Ordinance will become effective on the thirty-first (31st) day following its passage and adoption.

PASSED, APPROVED, AND ADOPTED this 13th day of June, 2017.

__________________________
George Moyer, Mayor
City of Banning

ATTEST:

__________________________
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

__________________________
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1508 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ___ day of __________, 2017, and was duly adopted at a regular meeting of said City Council on the ___ day of __________, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________
Marie A. Calderon, City Clerk
City of Banning, Banning, California
ATTACHMENT 3
Chapter 3.24 - PURCHASING SYSTEM

Sections:

Footnotes:

--- (2) ---


3.24.010 - Adoption of purchasing system.

The purpose of this chapter is to establish efficient procedures for the purchase of supplies, services and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases. Therefore, a centralized purchasing system is adopted and the purchasing officer is vested with the authority for the purchase of all city supplies, services and equipment.

(Code 1965, § 18A-1.)

3.24.020 - Definitions.

Unless otherwise indicated, the following definitions shall apply to all provisions of this chapter:

"City manager" means the city manager or person designated by the city manager to perform all or some of the duties prescribed in this chapter.

"Contract" means any type of legally recognized agreement to provide goods or services, including formal contractual agreements and informal letter contracts, but excluding purchase orders as defined by this section.

"Cooperative purchase agreement" means the purchase of goods or services utilizing a contract entered into by another government entity, when it is in the city's best interest. The procedures of California Government Code Section 10324 authorize the state to make purchases on behalf of the city when it is to the city's advantage. Other California municipalities invite participation on purchases using the increased volume to result in better pricing for all participants.

"Emergency" for purposes of public projects shall have that meaning provided in Section 1102 of the Public Contract Code, which reads: "Emergency," as used in this Code, means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. "Emergency," for all other purposes, means a public calamity or disaster; or, an immediate procurement is essential to protect the public health or safety, or to avoid interruption of essential city operations.

"Local business" means a business firm with fixed offices or distribution points located within the boundaries of the city, with a City of Banning street address. Post office box numbers or residential addresses may not be used solely to establish status as a local business. The business must have a valid City of Banning business license prior to the commencement of the contract.

"Professional services" mean all services performed by persons in a professional occupation, including but not limited to, consulting and performance services for accounting, auditing, computer hardware and software support, engineering, architectural, planning, environmental, redevelopment, financial, economic,
personnel, social services, legal, management, communication and other similar professional functions which may be necessary for the operation of the city.

"Public facility" means any city-owned or operated property, infrastructure or facility.

"Public project," as defined in Section 20161 of the Public Contract Code, means: (1) a project for the erection, improvement, painting, or repair of public buildings and works; (2) work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow; (3) street or sewer work except maintenance or repair; (4) furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

"Purchase" means buy, lease or rent supplies, equipment or services.

"Purchase order" means a formal document authorizing the purchase of supplies, equipment, or services from a vendor, and executed by the purchasing officer as a stand-alone agreement or pursuant to the authority granted in a contract. It is the vendor's authorization to deliver and invoice goods as specified. It is used to communicate to the vendor the city's terms and conditions and authorizes an encumbrance of city funds.

"Purchasing Officer" means the city manager or his or her designee(s). Initially, the city manager designates the finance director to act as the purchasing officer. Pursuant to this section, the city manager may change his or her designation at any time.

"Requisition" means an internal document used to communicate to the purchasing officer and coordinate requests for supplies, equipment and services.

"Sole source" means the goods, supplies or services are available from only one vendor and there is no permissible substitute.

(Code 1965, § 18A-2.)

3.24.030 - Purchasing officer.

There is created the position of purchasing officer, who shall be appointed by the city manager. The purchasing officer shall have the general supervision of all purchasing functions of the city. The duties of the purchasing officer may be combined with those of any other office or position. Subject to the supervision of the city manager, the purchasing officer shall have the authority to:

A. Negotiate contracts on behalf of the city for the purchase of supplies, equipment and services in accordance with this chapter, which contracts will be subject to award by the city council or city manager and execution by the mayor or city manager;

B. Negotiate and execute purchase orders on behalf of the city, for the purchase of supplies, equipment and services required by the city in accordance with this chapter;

C. Prepare, and implement policies and procedures governing the purchase, bidding, contracting, storing, distribution and disposal of supplies, services and equipment for the city;

D. Prescribe and maintain such forms as may be reasonably necessary to the implementation of this chapter and any other policies and procedures approved by the city manager consistent with this chapter;

E. Review the working details, drawings, plans and specifications for any projects or purchases requiring such review in this chapter;

F. Inspect or supervise the inspection of purchased supplies, services and equipment to ensure conformity with any specifications established or required by the city;

G. Transfer among departments any supplies, services and equipment not needed by one such department, but which are necessary for the operations of one or more other departments;
H. Sell any supplies and equipment not needed for public use or that may become unsuitable for their intended use;

I. Develop and maintain any bidder's list, contractor's list or vendor's catalog file necessary to the operation of this chapter and any other policies and procedures approved by the city manager consistent with this chapter.

(Code 1965, § 18A-3.)

3.24.040 - Types of contracts.

A. Formal contracts shall be used for the purchase of goods, equipment, or services whenever those goods, equipment, or services are sought by way of a request for proposal or when the purchasing officer determines that, due to the complexity, risk, or monetary value of the goods, equipment, or services sought, a formal agreement with detailed procedural and substantive protections of the city's interests is necessary.

B. Informal letter contracts shall be used when the purchasing officer determines that due to a lack of complexity, risk, or monetary value, a purchase of services need not include the detailed procedural and substantive protections of the city's interests.

C. Purchase orders are formal documents requesting the delivery of specific goods, equipment, or services and promising payment therefor. They are issued by the purchasing officer and must be used in conjunction with formal contracts or else as provided in this chapter as stand-alone documents for all city purchases with the exception of purchases made pursuant to short form purchase orders or other methods consistent with this chapter and the policies and procedures implementing this chapter.

D. Open purchase orders are formal agreements whereby the city contracts with a vendor to provide services, tools and equipment or supplies on a just-in-time basis. They are encumbered purchase orders with a maximum dollar amount that may be purchased per transaction and a maximum dollar amount that can be spent through the term of the contract. They must be used in conjunction with a formal contract.

E. Short form purchase orders are formal documents that provide a method whereby department directors may purchase nonrepetitive, low volume, low-cost goods or services valued at less than one thousand dollars.

(Code 1965, § 18A-4.)

3.24.050 - City manager authorization to execute contracts, conveyances and instruments.

Pursuant to California Government Code Section 40602, the mayor must execute all contracts, conveyances, and instruments requiring the city seal on behalf of the city, unless another city officer or employee is authorized to do so. The city manager and/or his or her designee(s) are authorized to execute contracts, conveyances, and instruments requiring the city seal on behalf of the city.

(Code 1965, § 18A-5; Ord. No. 1440, § 2, 1-24-12)

3.24.060 - Procurement methods.

A. The city shall secure supplies, services and equipment at the lowest total cost commensurate with the quality and scope needed, and subject to any limitations imposed by state law. The city shall secure professional services based upon demonstrated competence, professional qualifications and suitability for the project in general. The city may consider cost of professional services, if the purchasing officer determines it to be a relevant factor under the circumstances.
B. The purchasing officer shall develop, for approval by the city manager, such policies and procedures as are necessary to implement the provisions of this chapter. The policies and procedures shall be written and implemented in such a way to:

1. Encourage open and competitive bidding, where appropriate;
2. Provide equal opportunity based on merit;
3. Make each selection process free of favor, prejudice and discrimination;
4. Provide for efficient and timely acquisition of needed supplies, services and equipment;
5. Provide effective fiscal controls.

C. In purchasing, supplies, services and equipment, the city shall make use of competitive bidding, both formal and informal, whenever required by law, this chapter, or any policies and procedures approved by the city manager consistent with this chapter.

D. The city shall comply with all federal and state bidders' security and bonding requirements and all prevailing wage laws applicable to each contract or purchase.

E. The city shall not split a project, work, service or purchase into small projects, works, services or purchases for the purpose of avoiding any bidding or contracting requirements of this Code.

(Code 1965, § 18A-6.)


Except as otherwise provided in this chapter, purchases for supplies, equipment and services (except public projects) with a value of more than twenty-five thousand dollars shall be awarded by the city council using a formal procedure. Where the department requesting the purchase has a specification that clearly defines the item or service requested, bids shall be sought pursuant to the requirements prescribed in subsection A of this section and administrative policies and procedures implementing this chapter. Where the department is cognizant of a desired end, but wishes to give vendors flexibility to meet that end in the most efficient means necessary, proposals will be sought pursuant to the requirements prescribed in subsection B of this section and the administrative policies and procedures implementing this chapter.

A. Formal Bidding.

1. Notice Inviting Bids. Notice inviting formal bids shall: (a) describe the supplies, services or equipment to be purchased; (b) state where bid plans and specifications may be obtained; (c) state the date, time and place for opening of sealed bids; and (d) include any other information required by state or local law, as determined by the city attorney. Notice inviting bids shall be published at least ten days prior to the date set for opening of the bids. Notice shall be published at least once in a newspaper of general circulation printed and published in the city, or, if there is no such newspaper, in a newspaper of general circulation which is circulated in the city, and shall be posted at City Hall.

2. Proprietary Products. Upon approval of the purchasing officer, if the director of the using department certifies that, to the best of his or her knowledge, the product or service is proprietary in nature and can be obtained only from a limited number of vendors or contractors, and that no equivalent products or services are available, the notice inviting bids may be sent exclusively to such vendor(s) or contractor(s).

3. Bidder's Security and Bonds. The purchasing officer shall have the authority to require a bid security in the amount of ten percent of the value of the contract, or a performance bond and/or labor and materials bond in such amount as is necessary to protect the best interests of the city. If the purchasing officer requires a bid security or performance bond, the form and amount of the bond shall be described in the notice inviting bids.
4. Formal Bid Opening Procedure. The purchasing officer, or his designee, shall publicly open all bids at the time and place stated in the public notice. A tabulation of all bids received shall be available for public inspection in the purchasing office during regular business hours for a period of not less than thirty calendar days after bid opening.

5. Tie Bids. If two or more bids are received which are in all respects equal, the city council may accept the one it chooses.

6. Acceptance of Formal Bid. Contracts in the amount of twenty-five thousand dollars or less will be awarded by the city manager. Contracts for more than twenty-five thousand dollars will be awarded by the city council. The determination of "lowest responsible bidder" shall be at the discretion of the awarding body pursuant to findings and recommendations presented by the purchasing officer at the time of award. The awarding body may reject any or all bids received, and may waive any minor irregularities in each bid received.

7. Five-Year Term Limitation. No Professional service contracts, general maintenance contracts, or other contract work contracts shall extend for a period of more than five years, including any authorized extensions.

8. Failure to Enter Into Contract. A notice of award letter shall be sent to any successful bidder required to execute a contract with the city. Failure to enter into a contract or refusal to accept a purchase order within ten calendar days after the notice of award shall result in the forfeiture of the awardee's bid bond, if any. Award shall thereafter be made to the next lowest responsible, responsive bidder.

B. Request for Proposal/Qualifications.

1. Notice Inviting Request for Proposals/Qualifications. A notice inviting request for proposals/qualifications shall: (a) describe the supplies, services or equipment to be purchased; (b) state where the complete request for proposal may be obtained; (c) state the date, time and place for receipt of the proposals; and (d) include any other information required by state or local law, as determined by the city attorney. Notice inviting proposals shall be published at least ten days prior to the date set for receipt of the proposals. Notice shall be published at least once in a newspaper of general circulation printed and published in the city, or, if there is no such newspaper, in a newspaper of general circulation which is circulated in the city, and shall be posted at City Hall.

2. Proprietary Products or Services. Upon approval of the purchasing officer, if the director of the using department certifies that, to the best of his or her knowledge, the product or service is proprietary in nature and can be obtained only from a limited number of vendors or contractors, and that no equivalent products or services are available, the notice inviting proposals may be sent exclusively to such vendor(s) or contractor(s).

3. Opening of Request for Proposals/Qualifications. The purchasing officer shall open the proposals after the date and time as set forth in the notice inviting proposals/qualifications. The purchasing officer and the using department director or his or her designee will evaluate the proposals based on the vendor's understanding of the work required by the city, demonstrated competence and professional qualifications necessary for performance of the work and other factors that result in the best interest of the city.

4. Acceptance of Proposals/Qualifications. Contracts in the amount of twenty-five thousand dollars or less will be awarded by the city manager. Contracts for more than twenty-five thousand dollars will be awarded by the city council. The city manager or the city council may reject any or all proposals received, and may waive any minor irregularities in each proposal received.

5. Failure to Enter Into Contract. A notice of award letter shall be sent to any successful proposer required to execute a contract with the city. Failure to enter into a contract or refusal to accept a purchase order within ten calendar days after the notice of award shall result in the forfeiture of the awardee's bid bond if any. Award shall thereafter be made to the next lowest responsible, responsive proposer.
C. All purchases for services to any public facility must have a duly executed contract, in addition to a purchase order.

(Code 1965, § 18A-7.)

3.24.080 - Open market or informal bid procedures.

Purchases of supplies, equipment and services (other than professional services and public projects) with a value in the amount of twenty-five thousand dollars or less may be made in the open market to the bidder offering the most advantageous quote, using an informal procedure pursuant to the requirements prescribed in subsections A through E of this section, provided, however, all bidding may be dispensed with for purchases of supplies, equipment and services having a total estimated value of one thousand dollars or less:

A. Open market purchases shall, wherever possible, be based on at least three quotes, and shall be awarded to the vendor offering the most advantageous quote to the city after consideration of price, quality, durability, servicing, delivery time, standardization, and other factors.

B. The purchasing officer shall solicit quotes by written and/or electronic request to prospective vendors, or by telephone, or by public notice posted on a public bulletin board at the city offices.

C. All purchases for services to any public facility for one thousand dollars or less may be made by purchase order.

D. All purchases for services to any public facility for more than one thousand dollars, but less than five thousand dollars must have a duly executed contract, in addition to a purchase order.

E. Purchase of goods, supplies and equipment with a value of one thousand dollars or less may be made by department personnel with the approval of the department director as provided in this chapter and in administrative policies and procedures implementing this chapter.

(Code 1965, § 18A-8.)

3.24.090 - Professional services purchasing procedures.

Contracts for professional services shall be awarded to the contractor who will best serve the interests of the city, taking into account demonstrated competence, professional qualifications and suitability for the project in general. The city may consider cost of professional services, if the purchasing officer determines it to be a relevant factor under the circumstances. Procurement of professional services will be made pursuant to the requirements prescribed in subsections A through D of this section:

A. Professional services contracts of twenty-five thousand dollars or less shall be awarded by the city manager, upon recommendation of the director of the department responsible for the project. Wherever possible, procurement of professional services shall be pursuant to the formal bidding procedure as prescribed in Section 3.24.070(B) of this chapter.

B. Professional services contracts of more than twenty-five thousand dollars shall, except as otherwise provided in this chapter, be awarded by the city council pursuant to the formal bidding procedure as prescribed in Section 3.24.070(B) of this chapter.

C. In the event that it is determined by the city manager, that it would be in the best interest of the city for services to be provided by a specific consultant, a contract may be awarded based on negotiations with the specific consultant. Contracts in the amount of twenty-five thousand dollars or less will be awarded by the city manager and contracts for more than twenty-five thousand dollars will awarded by the city council.

D. All procurement of professional services will be made by a duly executed professional services agreement, in addition to a purchase order.
E. Five-Year Term Limitation. No professional service contracts, general maintenance contracts, or other contract work contracts shall extend for a period of more than five years, including any authorized extensions.

(Code 1965, § 18A-9.)

3.24.100 - Public project bid procedure.

Notwithstanding any provision of this chapter to the contrary, all public project contracts for more than five thousand dollars must be contracted for and let by the procedures as set forth in Division 2, Part 3, Chapter 1, Article 4 of the Public Contract Code (commencing at Section 20160). This includes the purchase of supplies or materials for any such project, including maintenance or repair of streets or sewers. Award of all public projects pursuant to this section will be made by the City Council.

(Code 1965, § 18A-10.)

3.24.110 - Encumbrance of funds.

Except in cases of emergency, orders for supplies, services, and equipment may not be processed unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged.

(Code 1965, § 18A-11.)

3.24.120 - Exemption from centralized purchasing.

The purchasing officer, with the approval of the city manager, may authorize in writing any department to purchase or contract for specified supplies, equipment or services independently of the purchasing division, but shall require that such purchases or contracts be made in conformity with this chapter and all applicable administrative policies and procedures. Periodic reports from the department on purchases and contracts made under this authorization will be required. The purchasing officer may also rescind such authorization with written notice to the department concerned.

(Code 1965, § 18A-12.)

3.24.130 - Exceptions to bidding requirements.

Notwithstanding any provision of this chapter to the contrary, the competitive bidding procedures and requirements may be dispensed within any of the following instances:

A. When an "Emergency" has been determined to exist pursuant to the official policies and procedures implementing this chapter;

B. When the commodity is a sole source;

C. When the price is less than one thousand dollars;

D. When the purchasing officer determines the commodity can be procured using a cooperative purchase agreement (e.g., through CMAS or GSA) and, the price to the city is equal to or better than the price to that public agency;

E. When the commodity being purchased is gasoline, diesel or aviation fuel;

F. When the city council determines, in accordance with applicable law, that a competitive market does not exist, and no competitive advantage will be gained by the bidding process;
G. When no bids are received on formal or informal bidding procedures,

(Code 1965, § 18A-13; amended during 2007 recodification.)

3.24.140 - Local preference.

A. In order to promote the economic health of the city and to encourage local participation in the procurement process, the city council shall give a preference to local businesses, to the extent that such preference does not give an unlawful advantage to such local business over its foreign competition, and is otherwise permitted by law.

B. In the assessment of any responsive bid submitted by a local business pursuant to this chapter, the amount bid by the local business shall be lowered by the local preference percentage, for purposes of award, than the amount actually bid. The local preference percentage will be set by city council resolution.

(Code 1965, § 18A-14.)

(Ord. No. 1408, § 2, 8-25-09)

3.24.150 - Recycled products.

It is the policy of the City of Banning to purchase recycled products whenever possible to the extent that such use does not negatively impact the health, safety or operational efficiency of the city. The purchase of products which cannot be recycled or reused is strongly discouraged.

(Code 1965, § 18A-15.)


The city manager or his or her designee is authorized to establish policies and procedures for the identification and disposal of city's surplus property, including scrap material. Each determination that an item constitutes scrap material or city's surplus property shall be in writing. Any item with a value of ten thousand dollars or less may be declared surplus by the purchasing officer. Any item with a value of ten thousand dollars or more shall be declared surplus by the city council. Surplus property may not be purchased by a city official or an employee of the city, except at public auction or through other sealed bid procedures. Disposal of city's surplus property shall be made pursuant to this chapter and City of Banning Administrative Policy No. B-24.

(Code 1965, § 18A-16.)

3.24.170 - Conflict of interest.

No officer or employee of the city shall have any financial interest in the transaction of business in connection with the purchase of supplies, equipment and services for the city. No officer or employee of the city may contract with any person related to any officer or employee of the city by blood or marriage within the third degree for supplies, services or equipment, unless the purchase is made by a competitive bid process, and the person related submits the lowest responsible bid. No officer or employee shall participate in the procurement or selection process when such officer or employee has a relationship with a person or business entity seeking a contract under this chapter, which would subject such officer or employee to violation of the Government Code or this chapter.
(Code 1965, § 18A-17.)
TO: CITY COUNCIL
FROM: Michael Rock, City Manager
PREPARED BY: Patty Nevins, Interim Community Development Director
MEETING DATE: June 13, 2017
SUBJECT: Consider Adopting Resolution 2017-57, 1) Determining a Subsequent Environmental Document is Not Required and a Notice of Exemption will be filed, and 2) Approving Tentative Tract Map 35966 to Subdivide 616 Acres into 61 Lots for Financing and Conveyance Purposes, and Tentative Tract Map 35967 to Subdivide 907 Acres into 68 Lots for Financing and Conveyance Purposes, Both within the Butterfield Specific Plan Area (Pardee Homes)

RECOMMENDED ACTION:
Consider adopting Resolution 2017-57;

1. Determining that potential environmental issues associated with the proposed tentative tract maps were analyzed in the previously certified Environmental Impact Report for the Butterfield Specific Plan project (SCH No. 2007091149). There have been no substantial changes in the project nor in the circumstances under which the project is undertaken that will require major revisions of the previous environmental documents; nor is there new information that shows the project will have a significant environmental effect or an effect more severe than originally thought. Therefore, in accordance with CEQA Guidelines Section 15162, Subsequent EIRs and Negative Declarations, a subsequent environmental document is not required and a Notice of Exemption will be filed; and;

2. Approving Tentative Tract Map 35966 to create 61 lots for financing and conveyance purposes only, and Tentative Tract Map 35967 to create 68 lots for financing and conveyance purposes only, in accordance with the maps attached as
Exhibits “A” and “B” respectively and subject to the conditions of approval depicted in attached Exhibit “C”.

COMMITTEE RECOMMENDATION:

The project was considered at the May 3, 2017 Planning Commission meeting. At the meeting, the Planning Commission voted 3-0 (Commissioner Krick recused, Commission Wallace absent) to recommend approval of the project to the City Council.

BACKGROUND:

The Butterfield Specific Plan was originally approved by the City Council in March of 2012. Subsequent litigation and a settlement agreement resulted in a request by the applicant for approval of a general plan amendment related to Highland Home Road as well as certain minor modifications to the Specific Plan; the Planning Commission recommended approval of the applications in January 2017 and the City Council reviewed and approved the applications in February 2017.

The Project site is approximately 1,528 acres and is located in the northwestern corner of the City of Banning; see Figure 1. The site is generally bounded by Wilson Street to the south, Highland Springs Avenue to the west, Riverside County unincorporated land to the north and northeast, and portions of Highland Home Road to the east. Major access to the site is provided by Highland Springs Avenue, Wilson Street, and Highland Home Road.

The Project site is currently designated Specific Plan in the City’s General Plan. Site development is governed by the provisions of the Butterfield Specific Plan, which includes land use designations of Very Low Density Residential, Medium Density Residential, High Density Residential, Commercial, Active Recreation, and Passive Open Space-Parks.

ISSUES / ANALYSIS:

Tentative Tract Maps 35966 and 35967 would subdivide a total of 1523 acres of vacant land into 129 lots for financing and conveyance purposes. The Project site is located north of Wilson Street and east of Highland Springs Road, encompassing the Butterfield Specific Plan area as shown in Figure 1.
Figure 1: Butterfield Specific Plan Area

Tentative Tract Map 35966

Tentative Tract Map No. 35966 proposes 61 lots on 616 acres. This tract map covers the southerly portion of the Butterfield Specific Plan project area, generally from Wilson Street to the northerly boundary of the SCE transmission easement that transects the site.

Tentative Tract Map 35967

Tentative Tract Map No. 35967 proposes 68 lots on 907 acres. This tract map covers the northerly portion of the Butterfield Specific Plan project area, excluding the substation site along the easterly edge of the site and the former annexation area at the northwest portion of the site.
In accordance with Section 9.8 Financing and Conveyance Maps of the approved Development Agreement, "The Developer may have a Master Tract map approved for the purpose of conveying portions of the Developer's Property to others and/or for the purpose of creating legal lots which may be used as security for loans to develop the Developer's Property and as provided in Section 6.5.1. Any such map shall not authorize any Development and shall not be subject to any conditions, exactions or restrictions, other than monumentation and conditions which do not require the payment of money or the installation or construction of improvements."

The proposed Tentative Tract maps are proposed as financing and conveyance maps only, the function of which is to permit conveyance of parcels to individual owners and/or to facilitate project financing. No development is proposed or permitted in conjunction with these maps; notes on the maps clearly indicating this and a condition of approval reiterates same. No physical improvements are required for financing and conveyance maps, although tentative maps for future development of the project sites will require street design and other improvement information. Additional future approvals needed
prior to site development would include design review approvals, grading permits, and other approvals and permits as may be required.

The lots depicted on each map generally correspond to the streets and planning areas depicted on the approved land use plan in the Butterfield Specific Plan. There are certain variations, however, including acreage differences for some lots and certain parks that are not depicted within the maps, e.g. parks within planning areas adjacent to Highland Home Road (see Figure 3 for the approved Butterfield land use plan). Notwithstanding the fact that the proposed maps do not provide development rights, to ensure that there is no ambiguity with respect to future development staff has included a condition of approval that prior to final maps, the affected lots shall be adjusted to be consistent with the approved land use plan.

Figure 3: Butterfield Specific Plan Land Use Map
FISCAL IMPACT:

The Butterfield Specific Plan project consists of both residential and commercial development and represents a long term investment in the local community in both housing and public infrastructure (streets, fire station, parks and open space, utilities, drainage facilities, etc.). Future maps would provide for development which would ultimately result in building permit and development impact fee revenues to the City.

ALTERNATIVES:

1. Approve Staffs’ recommendations.
2. Do not approve Staffs’ recommendations and provide staff with alternate direction.

ATTACHMENTS:

1. City Council Resolution 2017-57
   a. Exhibit A – Tentative Tract Map 35966
   b. Exhibit B – Tentative Tract Map 35967
   c. Exhibit C – Conditions of Approval
2. Planning Commission Resolution 2017-09
3. Public Hearing Notice

Approved by:

[Signature]

Michael Rock
City Manager
RESOLUTION 2017-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING TENTATIVE TRACT MAP 35966 and TENTATIVE TRACT MAP 35967 FOR FINANCING AND CONVEYANCE PURPOSES ONLY FOR PROPERTY NORTH OF WILSON STREET AND EAST OF HIGHLAND SPRINGS AVENUE

WHEREAS, an application for Tentative Tract Map No. 35966 and Tentative Tract Map No. 35967 has been duly filed by:

Applicant/Owner: Pardee Homes
1250 Corona Pointe Court, #600
Corona, CA 92879

Parcel Address: North of Wilson Street, east of Highland Springs

APN’s:
TTM 35967: 408-120-014 through 017, 408-120-022, -025, and a portion of 408-120-020; 408-030-001 and 408-030-005

Lot Area: 1523 acres total;
TTM 35966: 616 acres
TTM 35967: 907 acres

WHEREAS, the Municipal Code allows the subdivision of approximately 1523 acres subject to the approval of a Tentative Tract Map and the Butterfield Specific Plan Development Agreement specifically provides for Tentative Tract Maps for financing and conveyance purposes; and

WHEREAS, on May 3, 2017 the Planning Commission held a duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Tentative Tract Maps and at which the Planning Commission considered the Tentative Tract Map and recommended approval to the City Council; and

WHEREAS, in accordance with Government Code § 65854, the City Council hearing was advertised in the Record Gazette newspaper on June 2, 2017 the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette Newspaper, and mailing notices to all property owners within 300 feet of the project site of the holding of a public hearing for the City Council’s review, at which time the project would be considered; and
WHEREAS, on June 13, 2017, the City Council held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to, the project and at which the City Council considered Tentative Tract Map 35966 and Tentative Tract Map 35967.

NOW THEREFORE, the City Council of the City of Banning does hereby resolve, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

Potential environment issues associated with the proposed tentative tract maps were analyzed in the previously certified Environmental Impact Report for the Butterfield Specific Plan project (SCH No. 2007091149). There have been no substantial changes in the project nor in the circumstances under which the project is undertaken which will require major revisions of the previous environmental document; nor is there new information that shows that the project will have a significant environmental effect or an effect more severe than originally thought. Therefore, in accordance with CEQA Guidelines Section 15162, Subsequent EIRs and Negative Declarations, a subsequent environmental document is not required and a Notice of Exemption will be filed.

Multiple Species Habitat Conservation Plan (MSHCP): The Project EIR’s mitigation measures, including submittal of a Determination of Biologically Equivalent of Superior Preservation (DBESP), ensure consistency with the Western Riverside County MSHCP. These mitigation measures will be incorporated into future development approvals as required by the project mitigation monitoring program to ensure consistency with the MSHCP.

SECTION 2. TENTATIVE TRACT MAP FINDINGS

An application for a Tentative Tract Map requires that it meet specific findings in accordance with Title 16 of the Banning Subdivision Municipal Code and Government Code Section 66473.1, 66473.5 and Section 66474. A tentative map must adequately meet the adopted provisions of the Title 16 Subdivision chapter based upon the following findings:

1. Tentative Tact Maps 35966 and 35967 are consistent and compatible with the objectives, policies, general land uses, and programs specified in the City’s General Plan.

Findings of Fact: The General Plan land use designation for the site is classified as Specific Plan; the Butterfield Specific Plan includes land use designations of Very Low Density Residential, Medium Density Residential, High Density Residential, Commercial, Active Recreation, and Passive Open Space-Parks. The proposed Tentative Tract Maps are generally consistent with the Butterfield Specific Plan and
are for financing and conveyance purposes only. Tentative tract maps for future development will be required prior to any development of the site and will be required to be consistent with the development standards of the Butterfield Specific Plan. As such, the proposed maps are consistent and compatible with the objectives, policies, general land uses, and programs specified in the City's General Plan.

2. The design and improvement of the subdivision proposed under Tentative Tract Maps 35966 and 35967 are consistent with the City's General Plan.

Findings of Fact: The proposed subdivisions are for financing and conveyance purposes only and do not propose physical improvements. Future tentative tract maps are required for development purposes and will be required to be designed to meet City standards, including providing satisfactory pedestrian and vehicular circulation, emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities.

3. The site is physically suitable for the type of development proposed under Tentative Tract Maps 35966 and 35967.

Findings of Fact: The project site transitions from relatively flat land at the northeast corner of Highland Springs Avenue and Wilson Street to the foothills of the San Bernardino Mountains. Major access to the site is provided by Highland Springs Avenue, Wilson Street, and Highland Home Road. Analysis of the project site relative to the physical suitability of the site for development was included in the approvals for the Butterfield Specific Plan. Although the current tentative tract maps do not propose development of the site, the site is physically suitable for future development as allowed under the Butterfield Specific Plan.

4. The site is physically suitable for the density of development under Tentative Tract Maps 35966 and 35967.

Findings of Fact: The project site transitions from relatively flat land at the northeast corner of Highland Springs Avenue and Wilson Street to the foothills of the San Bernardino Mountains. Major access to the site is provided by Highland Springs Avenue, Wilson Street, and Highland Home Road. Analysis of the project site relative to the physical suitability for density of development was included in the approvals for the Butterfield Specific Plan. Although the current tentative tract maps do not propose development of the site, the site is physically suitable for future development densities as allowed under the Butterfield Specific Plan.

5. The design of the subdivision and improvements proposed under Tentative Tract Maps 35966 and 35967 are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
Findings of Fact: Potential environment issues associated with the proposed tentative tract maps were analyzed in the previously certified Environmental Impact Report for the Butterfield Specific Plan project (SCH No. 2007091149). With mitigation, the project will not have a significant effect on biological resources. There have been no substantial changes in the project nor in the circumstances under which the project is undertaken which will require major revisions of the previous environmental document; nor is there new information that shows that the project will have a significant environmental effect or an effect more severe than originally thought. Therefore, the proposed tentative tract maps are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. The design of the subdivision and improvements proposed under Tentative Tract Maps 35966 and 35967 are not likely to cause health problems.

Findings of Fact: The subdivision maps are in conformance with the City's General Plan, Zoning Ordinance, and Subdivision Ordinance and the Butterfield Specific Plan, and the project has been conditioned to comply with all applicable Specific Plan requirements and City of Banning ordinances, codes, and standards. In addition, the design and construction of all future improvements for development subdivision will be conditioned to be in conformance with adopted City street and public works standards. The City's ordinances, codes, and standards have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare.

7. The design of the subdivision and improvements proposed under Tentative Tract Maps 35966 and 35967 will not conflict with easement, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Findings of Fact: Tentative Tract Maps 35966 and 35967 do not propose physical development or improvements. As such, the subdivisions will not conflict with any easements for access through or use of property within the proposed subdivisions.

8. The design of the subdivision proposed, Tentative Tract Map 35966 and 35967 adequately provide for future passive or natural heating and cooling opportunities.

Findings of Fact: Tentative Tract Maps 35966 and 35967 do not propose physical development or improvements. As such, the subdivisions will not affect nor will they conflict with, future passive or natural heating and cooling opportunities.
SECTION 3. CITY COUNCIL ACTION:

The City Council hereby takes the following action:

1. The City Council determines that potential environment issues associated with the proposed tentative tract maps were analyzed in the previously certified Environmental Impact Report for the Butterfield Specific Plan project (SCH No. 2007091149). There have been no substantial changes in the project nor in the circumstances under which the project is undertaken that will require major revisions of the previous environmental document; nor is there new information that shows the project will have a significant environmental effect or an effect more severe than originally thought. Therefore, in accordance with CEQA Guidelines Section 15162, Subsequent EIRs and Negative Declarations, a subsequent environmental document is not required and a Notice of Exemption will be filed; and

2. Approve Tentative Tract Map 35966 to create 61 lots for financing and conveyance purposes only, and approval of Tentative Tract Map 35967 to create 68 lots for financing and conveyance purposes only, in accordance with the maps attached as Exhibits "A" and "B" respectively and subject to the conditions of approval depicted in attached Exhibit "C".

PASSED, APPROVED AND ADOPTED this 13th day of June, 2017.

George Moyer, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning
CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2017-57 was adopted at a regular meeting of the City Council of the City of Banning held on the 13th day of June, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California
Exhibit “A”
Tentative Tract Map 35966
Exhibit "B"
Tentative Tract Map 35967
Exhibit “C”
Conditions of Approval
Tentative Tract Maps 35966 and 35967

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, boards, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

2. Approval of this entitlement shall not waive compliance with any sections of the Development Code, Butterfield Specific Plan, or other applicable City Ordinances in effect at the time of building permit issuance.

3. Approval of Tentative Tract Map 35966 and Tentative Tract Map 35967 shall be for a period of two (2) years from the date of City Council approval. All conditions of approval must be met on or before the expiration date or the applicant must request an extension of time at least thirty (30) days prior to the expiration date, and receive approval of said extension; otherwise, the approval shall expire and become null and void.

4. Approval of Tentative Tract Map 35966 and Tentative Map 35967 shall be for financing and conveyance purposes only. No applications for building or grading permits shall be accepted for the parcels created by this map until a future map for development has been approved by the city or as prescribed by conditions of approval already in place under the Butterfield Specific Plan and associated approvals.

5. Prior to final map, individual lots shall be modified as needed to substantially conform with the approved land use plan for the Butterfield Specific Plan.

-END-
ATTACHMENT 2
RESOLUTION 2017-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA, RECOMMENDING THAT THE BANNING CITY COUNCIL ADOPT RESOLUTION APPROVING TENTATIVE TRACT MAP 35966 and TENTATIVE TRACT MAP 35967 FOR FINANCING AND CONVEYANCE PURPOSES ONLY FOR PROPERTY NORTH OF WILSON STREET AND EAST OF HIGHLAND SPRINGS AVENUE

WHEREAS, the applicant has submitted an application for Tentative Tract Map No. 35966 and Tentative Tract Map 35967 to subdivide 1523 acres of vacant land into 129 lots (61 and 68 lots, respectively) for financing and conveyance purposes only, which was duly filed by:

Project Applicant: Pardee Homes
1250 Corona Pointe Court, #600
Corona, CA 92879

Property Owner: Pardee Homes
1250 Corona Pointe Court, #600
Corona, CA 92879

Parcel Address: North of Wilson Street, east of Highland Springs

APN's:
TTM 35967: 408-120-014 through 017, 408-120-022, -025, and a portion of 408-120-020; 408-030-001 and 408-030-005

Lot Area: 1523 acres total; TTM 35966: 616 acres TTM 35967: 907 acres

WHEREAS, the Municipal Code allows the subdivision of approximately 1523 acres and the Butterfield Specific Plan Development Agreement specifically provides for Tentative Tract Maps for financing and conveyance purposes; and

WHEREAS, the Community Development Department has evaluated the project's potential effects on the environment as required under the California Environmental Quality Act ("CEQA") and determined that potential impacts associated with the Tentative Tract Maps were adequately analyzed under the previously approved
Final Environmental Impact Report for the Butterfield Specific Plan project and that pursuant to CEQA Section 15162 no further environmental analysis is required; and

WHEREAS, on April 21, 2017 the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette Newspaper, and mailing notices to all property owners within 300 feet of the project site of the holding of a public hearing for the Planning Commission’s review, at which time the project would be considered; and

WHEREAS, on May 3, 2017, the Planning Commission held the noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to, the project and at which the Planning Commission considered Tentative Tract Map 35966 and Tentative Tract Map 35967.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby resolve, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

Potential environment issues associated with the proposed tentative tract maps were analyzed in the previously certified Environmental Impact Report for the Butterfield Specific Plan project (SCH No. 2007091149). There have been no substantial changes in the project nor in the circumstances under which the project is undertaken which will require major revisions of the previous environmental document; nor is there new information that shows that the project will have a significant environmental effect or an effect more severe than originally thought. Therefore, in accordance with CEQA Guidelines Section 15162, Subsequent EIRs and Negative Declarations, a subsequent environmental document is not required and a Notice of Exemption will be filed.

Multiple Species Habitat Conservation Plan (MSHCP): The Project EIR’s mitigation measures, including submittal of a Determination of Biologically Equivalent of Superior Preservation (DBESP), ensure consistency with the Western Riverside County MSHCP. These mitigation measures will be incorporated into future development approvals as required by the project mitigation monitoring program to ensure consistency with the MSHCP.

SECTION 2. FINDINGS TENTATIVE TRACT MAP

An application for a Tentative Tract Map requires that it meet specific findings in accordance with Title 16 of the Banning Subdivision Municipal Code and Government Code Section 66473.1, 66473.5 and Section 66474. A tentative map must adequately
meet the adopted provisions of the Title 16 Subdivision chapter based upon the following findings:

1. Tentative Tract Maps 35966 and 35967 are consistent and compatible with the objectives, policies, general land uses, and programs specified in the City’s General Plan.

**Findings of Fact:** The General Plan land use designation for the site is classified as Specific Plan; the Butterfield Specific Plan includes land use designations of Very Low Density Residential, Medium Density Residential, High Density Residential, Commercial, Active Recreation, and Passive Open Space-Parks. The proposed Tentative Tract Maps are generally consistent with the Butterfield Specific Plan and are for financing and conveyance purposes only. Tentative tract maps for future development will be required prior to any development of the site and will be required to be consistent with the development standards of the Butterfield Specific Plan. As such, the proposed maps are consistent and compatible with the objectives, policies, general land uses, and programs specified in the City’s General Plan.

2. The design and improvement of the subdivision proposed under Tentative Tract Maps 35966 and 35967 are consistent with the City’s General Plan.

**Findings of Fact:** The proposed subdivisions are for financing and conveyance purposes only and do not propose physical improvements. Future tentative tract maps are required for development purposes and will be required to be designed to meet City standards, including providing satisfactory pedestrian and vehicular circulation, emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities.

3. The site is physically suitable for the type of development proposed under Tentative Tract Maps 35966 and 35967.

**Findings of Fact:** The project site transitions from relatively flat land at the northeast corner of Highland Springs Avenue and Wilson Street to the foothills of the San Bernardino Mountains. Major access to the site is provided by Highland Springs Avenue, Wilson Street, and Highland Home Road. Analysis of the project site relative to the physical suitability of the site for development was included in the approvals for the Butterfield Specific Plan. Although the current tentative tract maps do not propose development of the site, the site is physically suitable for future development as allowed under the Butterfield Specific Plan.

4. The site is physically suitable for the density of development under Tentative Tract Maps 35966 and 35967.
Findings of Fact: The project site transitions from relatively flat land at the northeast corner of Highland Springs Avenue and Wilson Street to the foothills of the San Bernardino Mountains. Major access to the site is provided by Highland Springs Avenue, Wilson Street, and Highland Home Road. Analysis of the project site relative to the physical suitability for density of development was included in the approvals for the Butterfield Specific Plan. Although the current tentative tract maps do not propose development of the site, the site is physically suitable for future development densities as allowed under the Butterfield Specific Plan.

5. The design of the subdivision and improvements proposed under Tentative Tract Maps 35966 and 35967 are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Findings of Fact: Potential environment issues associated with the proposed tentative tract maps were analyzed in the previously certified Environmental Impact Report for the Butterfield Specific Plan project (SCH No. 2007091149). With mitigation, the project will not have a significant effect on biological resources. There have been no substantial changes in the project nor in the circumstances under which the project is undertaken which will require major revisions of the previous environmental document; nor is there new information that shows that the project will have a significant environmental effect or an effect more severe than originally thought. Therefore, the proposed tentative tract maps are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. The design of the subdivision and improvements proposed under Tentative Tract Maps 35966 and 35967 are not likely to cause health problems.

Findings of Fact: The subdivision maps are in conformance with the City's General Plan, Zoning Ordinance, and Subdivision Ordinance and the Butterfield Specific Plan, and the project has been conditioned to comply with all applicable Specific Plan requirements and City of Banning ordinances, codes, and standards. In addition, the design and construction of all future improvements for development subdivision will be conditioned to be in conformance with adopted City street and public works standards. The City's ordinances, codes, and standards have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare.

7. The design of the subdivision and improvements proposed under Tentative Tract Maps 35966 and 35967 will not conflict with easement, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Findings of Fact: Tentative Tract Maps 35966 and 35967 do not propose physical development or improvements. As such, the subdivisions will not conflict with any easements for access through or use of property within the proposed subdivisions.
8. The design of the subdivision proposed, Tentative Tract Map 35966 and 35967 adequately provide for future passive or natural heating and cooling opportunities.

Findings of Fact: Tentative Tract Maps 35966 and 35967 do not propose physical development or improvements. As such, the subdivisions will not affect nor will they conflict with, future passive or natural heating and cooling opportunities.

SECTION 3. PLANNING COMMISSION ACTION:

The Planning Commission hereby adopts Resolution No. 2017-09 recommending to the City Council approval of Tentative Tract Map 35966 and Tentative Tract Map 35967 as follows:

1. Potential environment issues associated with the proposed tentative tract maps were analyzed in the previously certified Environmental Impact Report for the Butterfield Specific Plan project (SCH No. 2007091149). There have been no substantial changes in the project nor in the circumstances under which the project is undertaken which will require major revisions of the previous environmental document; nor is there new information that shows that the project will have a significant environmental effect or an effect more severe than originally thought. Therefore, in accordance with CEQA Guidelines Section 15162, Subsequent EIRs and Negative Declarations, a subsequent environmental document is not required and a Notice of Exemption will be filed.

2. Approval of Tentative Tract Map 35966 to create 61 lots for financing and conveyance purposes only, and approval of Tentative Tract Map 35967 to create 68 lots for financing and conveyance purposes only, in accordance with the maps attached as Exhibits "A" and "B" respectively and subject to the conditions of approval depicted in attached Exhibit "C".

PASSED, APPROVED AND ADOPTED this 3rd day of May, 2017.
APPROVED AS TO FORM AND LEGAL CONTENT:

Gregg W. Kettles  
Interim Assistant City Attorney  
Jenkins & Hogin, LLC

ATTEST:

Sandra Calderon, Recording Secretary  
City of Banning, California
CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2017-09, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of May, 2017, by the following vote, to wit:

AYES: Krick, Shaw, Price, Briant

NOES: None

ABSENT: Wallace

ABSTAIN: None

\[Signature\]
Sandra Calderon, Recording Secretary
City of Banning, California

APPROVED BY

MAY 03 2017
CITY OF BANNING
PLANNING COMMISSION
Exhibit “C”
Tentative Tract Maps 35966 and 35967 Conditions of Approval

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, boards, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City’s defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

2. Approval of this entitlement shall not waive compliance with any sections of the Development Code, Butterfield Specific Plan, or other applicable City Ordinances in effect at the time of building permit issuance.

3. Approval of Tentative Tract Map 35966 and Tentative Tract Map 35967 shall be for a period of two (2) years from the date of City Council approval. All conditions of approval must be met on or before the expiration date or the applicant must request an extension of time at least thirty (30) days prior to the expiration date, and receive approval of said extension; otherwise, the approval shall expire and become null and void.

4. Approval of Tentative Tract Map 35966 and Tentative Map 35967 shall be for financing and conveyance purposes only. No applications for building or grading permits shall be accepted for the parcels created by this map until a future map for development has been approved by the city or as prescribed by conditions of approval already in place under the Butterfield Specific Plan and associated approvals.

5. Prior to final map, individual lots shall be modified as needed to substantially conform with the approved land use plan for the Butterfield Specific Plan.

-END-
ATTACHMENT 3
NOTICE OF A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A NOTICE OF 
EXEMPTION FOR TENTATIVE TRACT MAP NO. 35966 AND TENTATIVE TRACT 
MAP NO. 35967, BOTH FOR FINANCING AND CONVEYANCE PURPOSES ONLY, 
FOR PROPERTY LOCATED NORTH OF WILSON STREET AND EAST OF 
HIGHLAND SPRINGS AVENUE WITHIN THE BUTTERFIELD SPECIFIC PLAN

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning City 
Council, to be held on Tuesday, June 13, 2017, at 5:00 p.m. in the Council Chambers, 
City Hall, 99 East Ramsey Street, Banning, California, to consider Project No. 16-4501, 
proposed Tentative Tract Map No. 35966 and Tentative Tract Map No. 35967 to 
subdivide property for financing and conveyance purposes only. The property is located 
north of Wilson Street and east of Highland Springs Avenue, within the Butterfield 
Specific Plan area.

Information regarding the Notice of Exemption and Tentative Tract Maps No. 35966 
and 35967 can be obtained by contacting the City’s Community Development 
Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey 
Street, Banning. You may also go to the City of Banning website at 
http://www.ci.banning.ca.us/.

All parties interested in speaking either in support of or in opposition of this item are 
invited to attend said hearing, or to send their written comments to the Community 
Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to 
raising only those issues you or someone else raised in written correspondence delivered 
to the City Clerk at, or prior to, the time the Planning Commission makes its decision on 
the proposal; or, you or someone else raised at the public hearing or in written 
correspondence delivered to the hearing body at, or prior to, the hearing (California 
Government Code, Section 65009).

BY ORDER OF THE INTERIM COMMUNITY DEVELOPMENT DIRECTOR OF THE 
CITY OF BANNING, CALIFORNIA

Patty Nevins
Interim Community Development Director

Dated: May 30, 2017
Published: June 2, 2017
I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1986, Case No. 54737. That the notice, of which the annexed is a copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

June 2, 2017

Executed on: 06/02/2017

At Banning, CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

[Signature]
RECOMMENDED ACTION:

City Council receive the 2017/2018 Waste Management Rate Adjustment Request as previously approved through Resolution 2016-68.

BACKGROUND:

On August 23, 2016, the Banning City Council held a public hearing and adopted Resolution 2016-68, approving the rate adjustment for the collection, transportation and disposal of solid waste services.

As part of that process, the City complied with Article XIID of the California State Constitution and Proposition 218 Omnibus Implementation Act ("Proposition 218"). Proposition 218 was approved by the California voters in 1996 and required local governments: 1.) give notification to all affected property owners and rate payers of the proposed rates and instructions for those who wish to protest the rate increase, 2.) hold a public hearing at least 45 days after mailing of the notifications, and 3.) reject the proposed fee if written protests are presented by a majority of affected property owner and rate payers.

Proposition 218 notices were mailed to property owners and rate payers on or before July 9, 2016, providing a 45-day period before the public hearing. The City received 33 written responses from residents, which fell well below the needed majority of 5,886 responses required to reject the rate increase.
Resolution 2016-68 adopted by City Council also approved future annual rate increases for an additional four years based on two components: 1.) Consumer Price Index (“CPI”) and 2.) disposal/green waste processing fees. The Proposition 218 notice sent to property owners and rate payers highlighted this four-year rate increase period in bold lettering.

Waste Management has now submitted their proposed rate adjustment for 2017/2018:

1. CPI saw an average annual percentage increase of 1.19% and will be applied to all service components and ancillary charges in the current rate sheet. The overall rate adjustment to the residential customer will be 1.88%. The overall residential increase is $0.39 cents.

2. Riverside County tipping fees will be increasing by 1.97% and will be applied to all disposal components of the rate structure. The disposal component of the rates will increase from $37.21 to $37.95 per ton.

In addition to the two components, Waste Management has also requested the addition of three service fees to address service impacts:

- **Return to Service Rate - $25.00** A rate for residential customers that call for return to service their trash/recycling/green waste carts. The rate is designed to encourage residents to have their carts set out on the curb no later than 6:00 AM on service day. As a courtesy, residential customers will have a one-time return to service allowed in a calendar year.

- **Residential Green Waste Contamination Rate - $15.00** A rate to residential customers who contaminate their green waste cart. This action from residents has reached a point in our service that brings heightened awareness to the levels of contamination at our green waste facilities. Green waste facilities are rejecting loads due to extreme levels of contamination and thus impacting the cities diversion.

- **Roll-out/Push Service Rate (Commercial)** - A rate for commercial customers that require WM Driver to Push or Roll Out Commercial Bin more than 15 feet from business enclosure area.
  - 16-35 feet, $ 15.00
  - 36-50 feet, $ 22.00
  - Over 51 feet, $ 29.00

If approved, the new rates will be effective on July 1, 2017. The future rate increases in 2018, 2019 and 2020 will be presented to City Council for review prior to implementation.
ISSUES/ANALYSIS:

The adoption of Resolution 2016-68 authorized annual rate increases over the next four-year period (2017-2020) under the Proposition 218 process conducted in June 2016 and does not require any additional notice.

In an effort to ensure that citizens are aware of the rate increase, the City will include a bill message on all utility bills through the month of July informing customers of the rate increase and the reasoning for it. Information regarding the rate increase will also be added as a news flash to the City’s web site and will be shared on the City’s social media pages.

FISCAL IMPACT:

The current residential rate for refuse collection services is $20.60 per month, per household, and if approved, the rate will increase to $20.99 based on the overall rate adjustment of 1.88%. Commercial rates will be adjusted accordingly, as shown in the attached proposed residential and commercial rate schedule.

ALTERNATIVES:

1. Reject the recommendation. Per the 4th Amendment to the Franchise Agreement, Section 18. Compensation: …If the increase is not imposed, Waste Management shall have the right within 180 days to request that a second hearing be held, and if such increase is still not approved following the second hearing, Waste Management may give a 180-day notice of termination and terminate the Franchise Agreement.

ATTACHMENTS:

1. Waste Management 2017/2018 Rate Adjustment Request Letter
2. Revised Rate Sheet
3. Resolution 2016-68

Approved by:

Michael Rock
ATTACHMENT 1
March 30, 2017

Mr. Michael Rock
City Manager
City of Banning
99 East Ramsey Street
Banning, CA 92220

RE: 2017/2018 Rate Adjustment Request

Dear Mr. Rock:

Pursuant to Section 18A8, Annual Rate Adjustment of the franchise agreement, the 2017/2018 rate adjustment was calculated by using the Consumer Price Index as prepared by the United States Department of Bureau of Labor Statistics for the Los Angeles-Orange County-Riverside Metropolitan Area, all urban consumers December 2016 index.

Summary of Proposed Adjustments

- CPI- The average annual percentage change increase was 1.19% and should be applied to all service components and ancillary charges in the current rate sheet. Overall Rate Adjustment - The overall rate adjustment to the residential customer will be 1.88%.

- Solid Waste Disposal Costs- The Riverside County tipping fee will be increasing by 1.97% and will be applied to all disposal components of the rate structure. The disposal component of the rates will increase from $37.21 to $37.95 per ton.

Customer Rate Overview:

Residential Rate - $ 20.99 [An overall increase of $0.39 cents]
Commercial Rate- $ 118.29 [1- 3 yard serviced 1 x per week]

In addition, Waste Management is requesting the outlined below to address service impacts:
Return to Service Rate - $25.00 A rate for residential customers that call for return to service their trash/recycling/green waste carts. The rate is designed to encourage residents to have their carts set out on the curb no later than 6:00 AM on service day. As a courtesy, residential customers will have a one-time return to service allowed in a calendar year.

Residential Green Waste Contamination Rate - $15.00 A rate to residential customers who contaminate their green waste cart. This action from residents has reached a point in our service that brings heightened awareness to the levels of contamination at our green waste facilities. Green waste facilities are rejecting loads due to extreme levels of contamination and thus impacting the cities diversion.

Roll-out/Push Service Rate (Commercial) - A rate for commercial customers that require WM Driver to Push or Roll Out Commercial Bin more than 15 feet from business enclosure area.
- 16-35 feet, $ 15.00
- 36-50 feet, $ 22.00
- Over 51 feet, $ 29.00

With the Council’s approval, we would like to implement these new service rates effective July 1, 2017, in conjunction with our annual rate adjustment.

Please feel free to contact me if you have any questions at (951) 218-1189.

Meanwhile, Waste Management is proud to service the Banning community.

Respectfully,

Clara Vera
Representative to the City of Banning
Waste Management

Cc: Lily Quiroa, Waste Management
Doug Corcoran, Waste Management
EXHIBIT C SCHEDULE OF RATES

City of Banning
July 1, 2017

<table>
<thead>
<tr>
<th>Index Calculation</th>
<th>Old</th>
<th>New</th>
<th>Change</th>
<th>% of Change</th>
<th>Weighting</th>
<th>Weighted %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consumer Price Index</td>
<td>$215.78</td>
<td>$215.78</td>
<td>0.00%</td>
<td>1.92%</td>
<td>81%</td>
<td>1.92%</td>
</tr>
<tr>
<td>Riverside County Disposal</td>
<td>$37.21</td>
<td>$37.05</td>
<td>$0.16</td>
<td>0.72%</td>
<td>35%</td>
<td>0.99%</td>
</tr>
<tr>
<td>Total</td>
<td>$222.99</td>
<td>$222.93</td>
<td></td>
<td></td>
<td></td>
<td>1.89%</td>
</tr>
</tbody>
</table>

Residential Service

Regular weekly curbside refuse & recycling service:
Total per household with Green Waste (96-gal containers) $20.90 per month

Additional Residential Fees:
Trash - 06 gallon $8.38 per month
Trash - 04 gallon $6.71 per month
Trash - 35 gallon $5.04 per month
Recycle $2.18 per month
Garbage $11.93 per month
Card Exchange due to size change or customer misuse in excess of 1x per year $25.22
Residential Return to Service $35.00 per occurrence
Residential Green Waste Contamination $15.03 per occurrence

Commercial/Industrial Service

Commercial Trash

<table>
<thead>
<tr>
<th>Size of Bin</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Yard</td>
<td>$190.91</td>
<td>$180.81</td>
<td>$304.04</td>
<td>$346.46</td>
<td>$432.61</td>
<td>$516.03</td>
</tr>
<tr>
<td>3 Yard</td>
<td>$218.02</td>
<td>$238.87</td>
<td>$385.40</td>
<td>$455.52</td>
<td>$565.98</td>
<td>$671.37</td>
</tr>
<tr>
<td>4 Yard</td>
<td>$256.27</td>
<td>$315.16</td>
<td>$432.70</td>
<td>$575.17</td>
<td>$710.34</td>
<td>$850.92</td>
</tr>
<tr>
<td>6 Yard</td>
<td>$227.80</td>
<td>$445.62</td>
<td>$654.05</td>
<td>$830.57</td>
<td>$1,065.25</td>
<td>$1,271.43</td>
</tr>
</tbody>
</table>

Commercial Organics

<table>
<thead>
<tr>
<th>Size of Bin</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Yard</td>
<td>$179.55</td>
<td>$341.13</td>
<td>$603.07</td>
<td>$655.93</td>
<td>$725.73</td>
<td>$800.83</td>
</tr>
<tr>
<td>3 Yard</td>
<td>$227.07</td>
<td>$439.84</td>
<td>$671.86</td>
<td>$889.55</td>
<td>$1,105.51</td>
<td>$1,321.45</td>
</tr>
<tr>
<td>5 Yard</td>
<td>$357.30</td>
<td>$804.10</td>
<td>$1,806.07</td>
<td>$2,277.78</td>
<td>$2,998.80</td>
<td>$3,728.84</td>
</tr>
</tbody>
</table>

Other Services:
- Commercial Can Service - refuse service with recycling program $21.35
- Commercial Temporary Bin up to 7 days $120.80
- Commercial Temporary Bin (20 days) $213.96
- Bin Exchange $62.36
- Lost or Stolen Bin $317.96
- Burned Bin $178.62
- Extra Bin Dump (white on site) $62.40
- Overage Fee $48.54
- Lacking lids (per month times service frequency) $15.26
- Replacement Lock $31.79
- Replacement Key $9.36
- Commercial Set Up Fee $18.37
- Industrial Set Up Fee $18.37
- Additional bulky waste - E Waste $19.17 per item
- HOA Fee $29.11
- Miscellaneous per bin
- 0-15 feet $52.60
- 15-35 feet $25.00
- 36-50 feet $22.00
- Over 51 feet $20.25

Commercial RollOff

<table>
<thead>
<tr>
<th>Size of Bin</th>
<th>QTY</th>
<th>One</th>
<th>Two</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Yard</td>
<td>One</td>
<td>$84.06</td>
<td>$189.00</td>
</tr>
<tr>
<td>3 Yard</td>
<td>One</td>
<td>$103.65</td>
<td>$215.05</td>
</tr>
<tr>
<td>4 Yard</td>
<td>One</td>
<td>$123.06</td>
<td>$246.43</td>
</tr>
<tr>
<td>6 Yard</td>
<td>One</td>
<td>$185.01</td>
<td>$370.02</td>
</tr>
</tbody>
</table>

Relief Service

<table>
<thead>
<tr>
<th>Relief Service</th>
<th>Description</th>
<th>Fee Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>40 Cubic Yard Container</td>
<td>$216.47</td>
<td>Plus landfill fees</td>
</tr>
<tr>
<td>50 Cubic Yard Container</td>
<td>$216.47</td>
<td>Plus landfill fees</td>
</tr>
<tr>
<td>Monthly Minimum Pull</td>
<td>$216.47</td>
<td></td>
</tr>
<tr>
<td>40 Cubic Yard Container</td>
<td>$279.43</td>
<td>Plus landfill fees</td>
</tr>
<tr>
<td>40 Cubic Yard Temporary Container</td>
<td>$294.33</td>
<td>Includes 4 tons</td>
</tr>
<tr>
<td>Recycled Items Delivery Fee</td>
<td>$79.01</td>
<td></td>
</tr>
</tbody>
</table>
ATTACHMENT 3
RESOLUTION NO. 2016-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE RATE ADJUSTMENT FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE SERVICES

WHEREAS, the City of Banning entered into a Franchise Agreement with Waste Management of the Inland Empire in July of 1993 for an eight year period; and

WHEREAS, on April 24, 2001, the City Council adopted Resolution No. 2001-35, extending the Agreement for an additional five years, as allowed per the Agreement, from July 1, 2001 to June 30, 2006; and

WHEREAS, the City Council adopted Resolution No. 2002-28 on March 15, 2002 whereby the contract was re-negotiaeted to include automated services and to extend the Franchise Agreement for an additional five year period from July 1, 2006 to June 30, 2011; and

WHEREAS, on June 28, 2011, the City Council adopted Resolution No. 2011-53, whereby the City and Waste Management mutually agreed to modify the terms and conditions of the Franchise Agreement, including Section 18, and to extend services for an additional ten years until June 30, 2021; and

WHEREAS, Waste Management requested an adjustment of rates which was considered and approved by City Council on June 14, 2016 under Resolution 2016-51, which directed staff to process the rate adjustment including the Proposition 218 notification and public hearing process; and

WHEREAS, Proposition 218 was approved by California voters in 1996 and requires that local governments 1) give notification to all affected property owners and rate payers of the proposed rates and instructions for those who wish to protest the rate increases, 2) hold a public hearing at least Forty Five (45) days after mailing of the notifications and 3) reject the proposed fee if written protests are presented by a majority of affected property owners and rate payers; and

WHEREAS, letter notifications were mailed to each account providing public hearing information, explanation of rate adjustments and the proposed rate schedule; and

WHEREAS, a public hearing was held August 23, 2016, not less than 45 days following the mailing notifications to property owner and rate payers for consideration of the final approval of the rate adjustment; and

WHEREAS, a majority of the property owner and/or rate payers did not oppose the rate adjustment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:
SECTION 1. FINDINGS The City Council, based on oral and written testimony submitted at the public hearing held in accordance with Proposition 218 finds as follows:

a) A majority protest being 5886 and as the actual protest either in writing or at the hearing received being 33, a sufficient number of protests were not received to constitute a majority protest; and

b) In addition to the CPI increase the Franchise Agreement also permits the pass through of Tipping Fee increases charged by the landfill operator; and

c) In the event of increases as provided herein, the City shall be informed of the increase and customers shall be given notice prior to the imposition of the increase; and

d) The rates approved herein are necessary due to increasing operation cost and in order to comply with all health, safety and service requirements.

SECTION 2. ADOPTION Resolution 2016-68 is adopted approving the increases for the Service Charges for the Collection, Transportation and Disposal of Solid Waste.

SECTION 3. EFFECTIVE DATE This Resolution shall be considered as adopted upon the date that the vote is declared by the City Council and rates will become effective on October 1, 2016.

SECTION 4. ADDITIONAL ADJUSTMENTS Contractor is permitted to impose annual increases in rates for four (4) years without further hearing or protest and upon the annual approval of City Council.

SECTION 5. SUPERSEDED All previous Collection, Transportation and Disposal of Solid Waste rate structures are hereby rescinded.

PASSED, APPROVED AND ADOPTED this 23rd day of August, 2016.

[Signature]
Arthur L. Welch, Mayor
City of Banning

ATTEST:
[Signature]
Marie A. Calderon, City Clerk
City of Banning
APPROVED AS TO FORM
AND LEGAL CONTENT:

John G. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2016-68 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 23rd day of August, 2016, by the following vote, to wit:

AYES:    Councilmembers Franklin, Miller, Moyer, Mayor Welch

NOES:    Councilmember Peterson

ABSENT:  None

ABSTAIN: None

Marie A. Calderon, City Clerk
City of Banning, California
# New Rates for Residential and Commercial Effective: October 1, 2016

## Residential Services:

<table>
<thead>
<tr>
<th>Residential Cart Service</th>
<th>Current Monthly Rate</th>
<th>2016-17 Monthly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Rate</td>
<td>$19.20</td>
<td>$20.60</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Residential Fees</th>
<th>Current Monthly Rate</th>
<th>2016-17 Monthly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional 96-Gal Trash Cart</td>
<td>$8.10</td>
<td>$8.23</td>
</tr>
<tr>
<td>Additional 64-Gal Trash Cart</td>
<td>$6.49</td>
<td>$6.59</td>
</tr>
<tr>
<td>Additional 35-Gal Trash Cart</td>
<td>$4.87</td>
<td>$4.95</td>
</tr>
<tr>
<td>Additional Recycle Cart - Any Size</td>
<td>$2.08</td>
<td>$2.12</td>
</tr>
<tr>
<td>Additional GW Cart - Any Size</td>
<td>$4.96</td>
<td>$5.04</td>
</tr>
<tr>
<td>Residential Set-up Fee</td>
<td>$10.64</td>
<td>$10.81</td>
</tr>
<tr>
<td>Cart Exchange - Excess of 1 pt/year</td>
<td>$24.36</td>
<td>$24.75</td>
</tr>
<tr>
<td>Additional Bulky &amp; Estate - Per Item</td>
<td>$18.52</td>
<td>$18.81</td>
</tr>
</tbody>
</table>

## Commercial Services:

<table>
<thead>
<tr>
<th>Commercial Cart Service</th>
<th>Current Monthly Rate</th>
<th>2016-17 Monthly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Carts - Trash/Recycle Only</td>
<td>$20.82</td>
<td>$20.95</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Commercial Trash Service</th>
<th>Current Monthly Rate</th>
<th>2016-17 Monthly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Yard, 1x a week</td>
<td>$86.99</td>
<td>$86.64</td>
</tr>
<tr>
<td>2 Yard, 2x a week</td>
<td>$173.98</td>
<td>$177.28</td>
</tr>
<tr>
<td>2 Yard, 3x a week</td>
<td>$254.33</td>
<td>$259.15</td>
</tr>
<tr>
<td>2 Yard, 4x a week</td>
<td>$336.33</td>
<td>$342.73</td>
</tr>
<tr>
<td>2 Yard, 5x a week</td>
<td>$416.69</td>
<td>$424.63</td>
</tr>
<tr>
<td>2 Yard, 6x a week</td>
<td>$497.02</td>
<td>$506.50</td>
</tr>
<tr>
<td>3 Yard, 1x a week</td>
<td>$113.90</td>
<td>$116.10</td>
</tr>
<tr>
<td>3 Yard, 2x a week</td>
<td>$227.80</td>
<td>$232.21</td>
</tr>
<tr>
<td>3 Yard, 3x a week</td>
<td>$333.36</td>
<td>$339.84</td>
</tr>
<tr>
<td>3 Yard, 4x a week</td>
<td>$438.95</td>
<td>$447.50</td>
</tr>
<tr>
<td>3 Yard, 5x a week</td>
<td>$544.51</td>
<td>$555.14</td>
</tr>
<tr>
<td>3 Yard, 6x a week</td>
<td>$650.11</td>
<td>$652.81</td>
</tr>
<tr>
<td>4 Yard, 1x a week</td>
<td>$152.40</td>
<td>$155.35</td>
</tr>
<tr>
<td>4 Yard, 2x a week</td>
<td>$304.80</td>
<td>$310.70</td>
</tr>
<tr>
<td>4 Yard, 3x a week</td>
<td>$445.58</td>
<td>$454.24</td>
</tr>
<tr>
<td>4 Yard, 4x a week</td>
<td>$588.01</td>
<td>$599.48</td>
</tr>
<tr>
<td>4 Yard, 5x a week</td>
<td>$723.61</td>
<td>$743.02</td>
</tr>
<tr>
<td>4 Yard, 6x a week</td>
<td>$869.59</td>
<td>$886.57</td>
</tr>
<tr>
<td>5 Yard, 1x a week</td>
<td>$214.49</td>
<td>$218.69</td>
</tr>
<tr>
<td>5 Yard, 2x a week</td>
<td>$428.99</td>
<td>$437.39</td>
</tr>
<tr>
<td>5 Yard, 3x a week</td>
<td>$628.54</td>
<td>$640.90</td>
</tr>
<tr>
<td>5 Yard, 4x a week</td>
<td>$826.43</td>
<td>$842.72</td>
</tr>
<tr>
<td>5 Yard, 5x a week</td>
<td>$1,026.00</td>
<td>$1,045.25</td>
</tr>
<tr>
<td>5 Yard, 6x a week</td>
<td>$1,223.88</td>
<td>$1,248.06</td>
</tr>
</tbody>
</table>

## Roll-Off Services:

<table>
<thead>
<tr>
<th>Temp Roll-Off Service</th>
<th>Current Monthly Rate</th>
<th>2016-17 Monthly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>40 Yard with 4 tons</td>
<td>$380.93</td>
<td>$367.05</td>
</tr>
<tr>
<td>Compactor - plus landfill tipping fee</td>
<td>$269.99</td>
<td>$274.29</td>
</tr>
<tr>
<td>40 Yard Permanent plus landfill tipping fees</td>
<td>$209.14</td>
<td>$212.47</td>
</tr>
<tr>
<td>10 Yard Permanent plus tipping fee</td>
<td>$209.14</td>
<td>$212.47</td>
</tr>
<tr>
<td>Roll-Off Recycle/per load</td>
<td>$209.14</td>
<td>$212.47</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Roll-Off Fees</th>
<th>Current Monthly Rate</th>
<th>2016-17 Monthly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delivery/ReLocate/Trip Charge</td>
<td>$78.54</td>
<td>$77.56</td>
</tr>
<tr>
<td>Minimum Pull Fee (1 per month)</td>
<td>$209.14</td>
<td>$212.47</td>
</tr>
<tr>
<td>Industrial Set-up Fee</td>
<td>$17.75</td>
<td>$18.03</td>
</tr>
</tbody>
</table>

*To be adjusted yearly for 5 years in accordance with the formula on the Notice of Public Hearing to which this schedule is attached*
THIS PAGE LEFT BLANK INTENTIONALLY
TO:      CITY COUNCIL

FROM:     Michael Rock, City Manager

PREPARED BY:  Alejandro Diaz, Chief of Police
               Phil Holder, Captain

MEETING DATE:  June 13, 2017

SUBJECT: Resolution 2017-55 Approving a Service Agreement with Environmental Klean Up, Inc. for Weed Abatement Services

RECOMMENDED ACTION:

The City Council adopt Resolution 2017-55:

1. Approving a Service Agreement with Environmental Klean Up, Inc. for Weed Abatement Services in an amount not-to-exceed $50,000 for Fiscal Year 2017/2018 with the option to renew for three (3) additional single year periods.

2. Authorizing the City Manager to execute the Weed Abatement Services Agreement with Environmental Klean Up, Inc.

GOAL STATEMENT:

Weed Abatements Services assist the City in meeting Goal 4 – Public Health & Safety.

BACKGROUND:

On March 24, 2017, staff solicited proposals from qualified weed abatement service contractors for the City of Banning.

The scope of work for these services includes the removal of vegetation and debris from properties in the City of Banning to reduce fire danger and to be in compliance with the City’s Municipal Codes.

Staff advertised the Request for Proposal (RFP) in the Press Enterprise and Record Gazette and the City website. In addition, notifications of the opportunity were sent to
ten (10) weed abatement service contractors. In response to these efforts, the City received two (2) proposals from the following weed abatement service contractors:

1. Southern California Advanced Builders, Inc.
2. Environmental Klean Up, Inc.

The proposal from Environmental Klean Up, Inc. was recognized by staff as the most cost effective and responsive bid.

**FISCAL IMPACT:**

Funding for weed abatement services in an amount not-to-exceed $50,000 will be available in the Fiscal Year 2017/2018 Code Enforcement budget. Upon proof that the weed abatement service contractor has completed an assigned abatement job, the City will pay the contractor for its services, per the City contract. The City will then seek reimbursement from the owner of the property on which the work was completed. No additional funds are required.

**ALTERNATIVES:**

1. Adopt Resolution 2017-55.
2. Reject Resolution 2017-55. If rejected, effective July 1, 2017, the City’s Code Enforcement Department will not be able to address Municipal City Code violations in regard to overgrown vegetation on private property until such time that a vendor is selected through another RFP process.

**ATTACHMENTS:**

1. Resolution 2017-55
2. RFP
3. List of Weed Abatement Contractors Solicited
4. Proposals Received
5. Proof of Publications
6. Bid Tabulations and Contractor References

Approved by:

[Signature]
Michael Rock
City Manager
RESOLUTION 2017-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A SERVICE AGREEMENT CONTRACT WITH ENVIRONMENTAL KLEAN UP, INC. FOR WEED ABATEMENT SERVICES IN THE CITY OF BANNING FOR FISCAL YEAR 2017/2018 IN AN AMOUNT NOT TO EXCEED $50,000

WHEREAS, on March 24, 2017, staff solicited proposals from qualified companies to provide weed abatement services for private properties throughout the City; and

WHEREAS, staff advertised the Request for Proposal (RFP) in the Press Enterprise and Record Gazette and provided notification on the City’s website, as well as, sent notifications to ten (10) weed abatement service contractors and received two (2) proposals; and

WHEREAS, the scope of work for these services includes the removal of vegetation and debris from properties not in compliance with City of Banning Municipal Codes; and

WHEREAS, staff recommends the award of a Weed Abatement Services Agreement to Environmental Klean Up, Inc. in an amount not-to-exceed $50,000 for Fiscal Year 2017/2018 with the option to renew for three (3) additional single years upon a satisfactory annual review of provided services; and

WHEREAS, funding will be available in the City’s Code Enforcement accounts during Fiscal year 2017/2018 in the amount of not-to-exceed $50,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Banning City Council adopts Resolution 2017-55 approving a Service Agreement Contract with Environmental Klean Up, Inc. for Weed Abatement Services in the City of Banning in the amount not-to-exceed $50,000 for Fiscal Year 2017/2018.

SECTION 2. The City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to this services agreement.

SECTION 3. The City Manager or his designee is authorized to execute the Service Agreement Contract with Environmental Klean Up, Inc.
PASSED, ADOPTED AND APPROVED this 13th day of June, 2017.

George Moyer, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2017-55 was adopted by the City Council of the City of Banning at a regular meeting thereof held on the 13th day of June, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California
ATTACHMENT 2

(Request for Proposal - RFP)
Contract Documents
For
Invitation for Bid No. 17-012
“Weed Abatement Services”

Proud History
Prosperous Tomorrow

City of Banning
Police Department
125 East Ramsey Street
Banning, California 92220

March 24, 2017
SECTION I  PROCEDURAL DOCUMENTS
SECTION 1
OF
PROCEDURAL DOCUMENTS

INVITATION FOR BIDS

Sealed Bids for **IFB NO. 17-012, "WEED ABATEMENT SERVICES"** will be received by the **CITY OF BANNING** ("Owner") until **2:00 p.m.**, Pacific Standard Time on **April 7, 2017** at the location listed below:

**CITY CLERK'S OFFICE**
**BANNING CITY HALL**
**99 E. RAMSEY STREET**

Sealed Bids will be opened and read aloud at City Hall located at 99 E. Ramsey St., Banning, CA 92220.

REQUESTS FOR INFORMATION

All requests for information must be submitted in writing by **Thursday, March 30, 2017 by 10:00 a.m.** These requests can be submitted through email to Jennifer McCoy at jmccoy@ci.banning.ca.us. All submitted questions will be answered by Tuesday, April 4, 2017 no later than 5:00 p.m.

The City of Banning is soliciting bids from qualified vendors for Weed Abatement Services. It is intended for the awarded vendor to enter into an annual contract term with a maximum term and any subsequent amendments or modifications not exceeding five (5) years, *(Terms: 1 year with 4-1 year renewals).*

The bid shall include all costs for furnishing all labor, materials, tools, equipment and necessary incidentals to perform the work including, but not limited to mobilization, participation in safety meetings and clean up.

Bidders on this work will be required to comply with the California Labor Code Section 1410 et. seq., California Labor Code Section 1777.6, and implementing regulations concerning equal opportunity for Apprentices.

The Director of the Department of Industrial Relations has ascertained the general prevailing rate of per diem wages and the general rate for holiday and over-time work in the locality in which the work is to be performed for each craft or type of workmen needed to execute the Contract or Work as hereinafter set forth (see Labor code 1770 et seq.). Copies of rates are on file at the office of the Owner, which copies shall be made available to review to any interested party on request. The successful Bidder shall post a copy of such determinations at the job site. Attention is called to the fact that not less than the minimum salaries and wages shall be paid on this Project by all...
Contractors and Subcontractors. The Contractor will be required to pay the higher of State or Federal prevailing wage rates.

Bids are required for the entire work described herein. This contract is subject to the State contract nondiscrimination and compliance requirements pursuant to Government Code Section 12990.

The City of Banning hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in being considered for an award.

Each Bid shall be submitted on a form furnished as part of the contract Documents. The Contractor will be required to submit a certificate of insurance, which indemnifies the Owner for damage to any portion of the work resulting from fire, explosion, hail, lightning, flood, vandalism, malicious mischief, wind, collapse, riot, aircraft, or smoke.

PAYMENT

Progress payments will be made in cash to the Contractor in accordance with the provisions of the General Conditions and/or Specifications and on itemized estimates duly certified and approved by the Owner submitted in accordance therewith, based on labor and materials incorporated into said Work during the preceding month by the Contractor.

Payment shall not be made more often than once each thirty (30) days.

PUBLIC WORKS CONTRACTOR REGISTRATION

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Pursuant to Section 1771.1 of the Labor Code, no contractor or subcontractor shall be qualified to bid on, be listed in a bid proposal (submitted on or after March 1, 2015), or engage in the performance of any contract for public work unless currently registered with the Department of Industrial Relations to perform public work pursuant to Section 1725.5 of the Labor Code. It shall not be a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Sections 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
Bidders and their subcontractors listed in the bid documents must provide an extract (pdf) at time of bid showing active registration from the Public Works Contractor Registration online registration at [https://efiling.dir.ca.gov/PWCR/Search](https://efiling.dir.ca.gov/PWCR/Search).

All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement). Additionally, the awarded Contractor shall submit certified payroll records to the City.

**AWARD AND EXECUTION**

The award of contract, if made, will be within forty-five (45) calendar days from the date of the bid opening.

The Contractor shall execute the Contract within fifteen (15) calendar days after he has been notified in writing of the award.

The owner hereby reserves the right to reject any and all bids, to waive any irregularity, award any combination of schedules and to award the contract to the lowest responsive and responsible bidder. In case the lowest bid proposal is higher than the Project Manager's estimate, the owner reserves the right to negotiate a contract with the lowest responsive and responsible bidder. No bidder may withdraw his bid for a period of forty-five (45) calendar days after the bid opening.

**CITY OF BANNING, CALIFORNIA**
Dated: 03/24/17 and 03/31/17

/s/ Jennifer McCoy
Purchasing Manager
SECTION 1.2
OF
PROCEDURAL DOCUMENTS

INSTRUCTION TO BIDDERS

The CITY OF BANNING, herein called the “Owner”, at the office of the Owner, 99 East Ramsey Street, 2:00 p.m. on April 7, 2017 and then at said office publicly opened and read aloud, will receive bids.

Each Bid must be submitted in a sealed envelope, addressed to the Owner at the above-referenced address. Each sealed envelope containing a Bid must be plainly marked on the outside as IFB NO. 17-012 “WEED ABATEMENT SERVICES” and the envelope should bear on the outside the name of the Bidder, his address, his license number and the project number, if applicable. If forwarded by mail, the sealed envelope containing the Bid must be enclosed in another envelope addressed to the Owner at the above-referenced address.

All Bids must be made on the required Bid form schedule. All blank spaces for Bid prices must be filled in, in ink or typewritten, and the Bid form must be fully completed and executed when submitted.

The Owner may waive any informalities or minor defects or reject any and all Bids. Any Bid may be withdrawn prior to the above scheduled time for the opening of Bids or authorized postponement thereof. Any Bid received after the time and date specified shall not be considered. No Bidder may withdraw a Bid within forty-five (45) calendar days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period; the time may be extended by mutual agreement between the Owner and the Bidder.

Bidders must satisfy themselves of the character of the work to be performed by examination of the site and review of the Contract Documents, including Addenda. After Bids have been submitted, the Bidder shall not assert that there was a misunderstanding concerning the nature of the work to be done.

Deadline for submittal of bid Request for Information (RFI’s) is March 30, 2017 by 10:00 a.m. local time. Submit all inquiries to Jennifer McCoy, Purchasing Manager, by e-mail at jmccoy@ci.banning.ca.us.

The owner shall provide to Bidders prior to Bidding, all information that is pertinent to, and delineates and describes, the land owned and rights-of-way acquired or to be acquired.

The City’s standard Agreement for Consultant Services must be executed and returned to the City within ten (10) calendar days of receiving the Notice of Award.

IFB No. 17-012
“Weed Abatement Services”
The Notice to Proceed shall be issued within ten (10) days of the execution of the agreement by the Owner. Should there be reasons why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement between the Owner and Contractor. If the Notice to Proceed has not been issued within the above-specified period or within the period mutually agreed upon, the contractor may terminate the Agreement without further liability on the part of either party.

The Owner may make such investigations as he deems necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any Bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligation of the Agreement and to complete the Work contemplated therein.

A conditional or qualified Bid will not be accepted. Award, if made, will be made to the lowest responsive and responsible Bidder, as determined by the Owner.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the Contract throughout.

Each Bidder is responsible for inspecting the site and for reading and being thoroughly familiar with the Contract Documents. The failure or omission of any Bidder to do any of the foregoing shall in no way relieve any Bidder from any obligation in respect to his Bid.

All Bidders shall supply the names and addresses of major material suppliers, subcontractors and references as required as set forth in the Bid.

FILING OF BID PROTESTS

Bidders may file a “protest” of a contract award with the OWNER’s Purchasing Officer. In order for Bidder’s protest to be considered valid, the protest must;

- Be filed timely and in writing (as detailed in this Section).
- Clearly identify the specific accusation involved.
- Clearly identify the specific OWNER City Council recommendation being protested.
- Specify in detail, the grounds of the protest and the facts supporting the protest.
- Include all relevant, supporting documentation with protest at time of filing.

If the protest regarding the recommend award of a contract solicited by the Request for Proposal must be filed in writing with the OWNER within five (5) Calendar Days after the bid opening date.

If the protest is valid, the OWNER’S Purchasing Officer, or other designated OWNER staff member, shall review the basis of the protest and all relevant information.

IFB No. 17-012
“Weed Abatement Services”
The Purchasing Officer will deny or concur with the protest and provide a written decision to the protestor. The protestor may appeal the decision of the Purchasing Officer to the Deputy City Manager with 3 days of Notification thereof.

SCHEDULE OF EVENTS

This Invitation for Bid will be governed by the following schedule:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date/Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Release of IFB</td>
<td>March 24, 2017</td>
</tr>
<tr>
<td>Deadline for Written Questions</td>
<td>March 30, 2017 by 10:00 a.m.</td>
</tr>
<tr>
<td>Responses to Questions Posted on Web</td>
<td>April 4, 2017 by 5:00 p.m.</td>
</tr>
<tr>
<td>Bids are Due and Publicly Opened</td>
<td>April 7, 2017 at 2:00 p.m.</td>
</tr>
</tbody>
</table>

All dates are subject to change at the discretion of the City.
SECTION 1.3
OF
PROCEDURAL DOCUMENTS

BID

Bid of ____________________________________________, hereinafter called "bidder", organized and existing under the laws of the State of California, doing business as ____________________________________________.
* insert "a corporation", "a partnership", or "an individual", as applicable.

To the CITY OF BANNING, hereinafter called "Owner":

In compliance with your Invitation for Bid and Instruction to Bidders, Bidder hereby proposes to perform all work for the IFB NO. 17-012 "WEED ABATEMENT SERVICES" in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below.

By submission of this Bid, the Bidder certifies, and in the case of a joint Bid each party thereto certifies as to his own organization that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

Bidder hereby agrees that the Owner shall have a period of forty-five (45) calendar days after opening of bids within which to accept or reject the bids.

Bidder agrees to commence work under this contract on or before a date to be specified in the Notice to Proceed.

Bidder agrees that if the project is not fully completed within said time, he shall pay as liquidated damages, the sum of $750.00 for each calendar day thereafter as provided in the General Conditions, and that this amount shall be presumed to be the amount of damages sustained by Owner in the event of such a breach by Bidder, as it would be impractical or extremely difficult to fix the actual dam.
# BID SCHEDULE

**IFB NO. 17-012 “WEED ABATEMENT SERVICES”**

<table>
<thead>
<tr>
<th><strong>Handwork</strong> – The purpose of handwork is the removal of flammable vegetation along fence lines, around trees, around structures, and on properties not accessible by tractor or riding lawn mower. Also to dispose of flammable waste piles on property. When it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and, when authorized by the City representative, the vegetation shall be removed or thinned by hand labor.</th>
<th><strong>Hourly Rate</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$__________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Discing</strong> – Weed abatement by discing shall be accomplished by cultivating with a double-throw at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Disking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, due to reckless or negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.</th>
<th><strong>Per Acre Rate</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$__________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Photos</strong> – Date stamped photos taken before the work was started, and date stamped photos after the work is completed are to be included with each invoice produced for payment. The Contractor shall include a measuring device, pre-approved by the Contract officer, in all photos used to document the work product.</th>
<th><strong>Pricing per photo</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$__________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Debris Removal:</strong></th>
<th><strong>Hourly Rate:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Removal of rubbish (including but not limited to scrap metals, disassembled parts of automobiles or machinery, furniture, mattresses, tires, concrete, asphalt, bricks or other construction or demolition materials, debris, litter, cardboard, metal cans, glass, cut brush, dead trees, tree limbs and similar materials) and other garbage.</td>
<td>$__________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Other:</strong></th>
<th><strong>Fees/Rate Structure</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$__________</td>
</tr>
</tbody>
</table>
ADDENDA

Bidder acknowledges receipt of the following Addenda:

Addendum No.: ________  DATED: ________
Addendum No.: ________  DATED: ________
Addendum No.: ________  DATED: ________

NOTE: All addenda shall be signed by the Bidder and submitted with the bid package.
NON COLLUSION AFFIDAVIT

STATE OF CALIFORNIA

COUNTY OF ____________________________

being first duly sworn, the party making the
(Name of Bidder)

foregoing bid; that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

_________________________________
(Signature)

_________________________________
(Typed Name)

SUBSCRIBED BEFORE ME on this _____ day of ________________, 2017.

_________________________________
Notary Public

My commission Expires:

_________________________________
DECLARATION OF ACCURACY

I, the undersigned, declare under penalty of perjury that the information presented in this bid, including without limitation the Contractor's license number and expiration date, are true and correct to the best of my knowledge. The bid of any Bidder not signed by the Bidder, or not containing the Bidder's license number and license expiration date, or containing information which is subsequently proven false, shall be considered non-responsive and shall be rejected.

__________________________
Name

__________________________
Signature

__________________________
Address

__________________________
City, State, Zip

__________________________
Date

__________________________
Telephone

__________________________
Title

__________________________
Type of License

__________________________
Contractor's License No.

__________________________
Expiration Date of License

__________________________
Federal ID No. (If applicable)

__________________________
(SEAL - if Bid is by a corporation)

ATTEST

IFB No. 17-012
"Weed Abatement Services"
CERTIFICATION
LABOR CODE - SECTION 1861

I, the undersigned Contractor, am aware of the provisions of Section 3700 et. Seq. of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I, the undersigned Contractor, agree to and will comply with such provisions before commencing the performance of the Work of this Contract.

Contractor agrees to utilize federal job classifications for the submittal of the certified payrolls and further agrees to pay all of its employees the higher of the prevailing State or Federal wages.

CONTRACTOR:

Firm Name

By

Title
QUESTIONNAIRE REGARDING BIDDERS

Number of years engaged in the contracting business under present business name

List of at least the last three contracts performed which show experience in working on a project of a nature similar to that covered in this proposal. If none, so indicate. Attach separate list of references if necessary.

<table>
<thead>
<tr>
<th>Year</th>
<th>Type of Work</th>
<th>Contract Amt.</th>
<th>Location</th>
<th>Contact person/phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

State of California Contractor's License

No.:

Contractor's License Expiration Date:
SECTION 1.4
OF
PROCEDURAL DOCUMENTS

CERTIFICATES OF INSURANCE
AND ENDORSEMENTS

The Contractor shall not commence any work under the Contract Documents until he obtains, at his own expense, all required insurance as stipulated by the Owner. The required insurance shall be provided by the Contractor in conformance with the requirements of Article 13 through 16 of the General Conditions of these Contract Documents and includes the following:

- California Workers' Compensation Insurance
- Commercial General Liability Insurance
- Commercial Automobile Liability Insurance

The insurance company or companies utilized by the Contractor shall be authorized to transact business in the State of California and to issue policies in the amounts required in the General Conditions of these Contract Documents. Insurance is to be placed with insurers with a current A.M. Best's Rating of not less than A:VII.
SECTION II  GENERAL CONDITIONS AND SCOPE OF WORK
POLICE DEPARTMENT
WEED ABATEMENT SERVICES
Weed Control, Discing and Debris Removal

1. **BACKGROUND:** The City of Banning Code Enforcement Division may from time to time issue a notice of violation for violating city codes relating to unsafe and unhealthy overgrowth of vegetation in accordance with Banning Municipal Code Section 8.48.050 and City of Banning Ordinance No. 969. The property owner is directed to abate the condition causing the notification. If the property owner does not abate the condition as required, the City will cause the Contractor here to provide services necessary to abate the condition. Weed abatement contractors are hired on an as-needed basis to clear lots in cases where residents have failed to do so.

2. **PURPOSE:** Provide Weed Abatement and Site Cleanup services on an as needed basis in situations where property owners have failed to maintain their property according to City codes. Citations may be issued for violations of City Codes relating to unsafe and unhealthy overgrowth of vegetation and/or rubbish/garbage/brush, if required by the City.

3. **MINIMUM QUALIFICATIONS:** All firms should have at least (3) years of verifiable experience in weed abatement. All firms must provide at least three (3) references from current clients. All firms must have the ability to maintain their equipment in good working order.

4. **SCOPE OF WORK:** When directed by the City, the Contractor shall provide all labor, equipment, fuel, insurance, taxes and other items necessary to abate the condition of vegetation as specified herein. The work to be done shall consist of destroying weeds, wild grass, and poisonous or noxious plants and removing rubbish (including but not limited to scrap metals, disassembled parts of automobiles or machinery, furniture, mattresses, tires, concrete, asphalt, bricks or other construction or demolition materials, debris, litter, cardboard, metal cans, glass, cut brush, dead trees, tree limbs and similar materials), garbage, (including but not limited to animal matter including feces, fruit or vegetable matter) and trimming trees and brushes designated by the City Representative in accordance with the City of Banning Weed Abatement Standards, attached hereto.

Discovery of hazardous waste or hazardous materials shall be reported to the City Representative.
The City of Banning weed abatement standards shall be adhered to by all persons or companies performing weed abatement within the City of Banning:

a. All weeds must be completed disced under or cut to a height not to exceed two (2) inches. Thereafter, weeds shall be completed disced under or cut before or upon reaching the maximum height of five (5) inches at any given time the property is determined to be a fire hazard by the City of Banning.

b. Lots three (3) acres and under, shall be abated in their entirety. Refer to Exhibit "A", City of Banning Weed Abatement Standards attached hereto for reference.

c. Lots over three (3) acres shall have a fifty (50) foot cross hatch dividing each acre. Refer to Exhibit "A", City of Banning Weed Abatement Standards attached hereto for reference.

d. Weeds shall be abated to the back of curb, sidewalk, street paving edge of road, and around and up to fencing and poles.

e. Weed abatement procedure shall not disrupt, alter or block any natural or man-made water way, stream, or drainage ditch. All of said water ways must be kept clean and free of all debris as described in 11C-18.

f. Handwork will be required where tractors or other similar equipment have no access to meet requirements of items D and E above.

g. Any parcel lawfully used for harvesting any crop such as wheat, barley or hay, and/or used to graze livestock shall be provided with a 30 foot parameter adjacent to any improved properties. These parcels regarded as agriculture, shall be irrigated and maintained fire safe. No dried weeds will be permitted.

h. Weeds not abated as set forth in the California Fire Code (CFC), Section 304, shall be subject to inspection fees and penalties. A tax lien may be placed on any parcel where compliance is not obtained and inspection fees are not paid.

i. All property subject to this standard shall at all times be maintained consistent with the California Fire Code, Section 304.

j. Dust Control – It shall be the Contractor’s sole responsibility to comply with Federal, State and Local laws, Regulations and Ordinances, including but not limited to, South Coast Air Quality Management Division RULE 403. FUGITIVE DUST.

k. The Contractor shall furnish all hand tools, power equipment and safety equipment necessary to accomplish the specified work.

l. The Contractor will have portable water readily available and in sufficient quantity at all times for each hand crew member.

m. Gas weed eaters with adequate supplies, parts for repairs and enough fuel for the entire day must be supplied for hand crews.
n. Each hand crew must have one (1) gas powered weed eater for every two employees: for example, a four (4) person credit must be supplied with two (2) weed eaters, etc.

o. A sufficient reserve of weed eaters shall be available to eliminate down time.

p. Suitable flatbed hydraulic pump trucks or trailers with high sides for hauling are to be provided throughout the handwork operation and are to be operated and maintained at the expense of the Contractor.

q. All trimmings shall be hauled to an approved dumpsite at the Contractor’s expense.

r. The loading of materials removed from the lot is to be accomplished on the same day as cleaning is completed. No materials will be left on the lot for later pick up.

s. The Contractor shall at all times have one (1) person who shall be responsible for the conduct and supervision of hand crews.

t. Contractor shall at all times furnish the equipment and personnel needed to complete the required work in the most efficient manner.

u. The contractor shall obey all State and Federal laws and codes, all local ordinances and regulations and any other laws, codes, ordinances and regulations, which may apply. It is the responsibility of the Contractor to keep informed of these laws, codes, ordinances and regulations and to keep informed of any changes to them.

5. SCHEDULE: All work shall be on an as needed basis as specified during the term of the contract. All firms should have the ability to complete assigned jobs within fourteen (14) days upon assignment. All work shall be started on site within 72 hours after request for service and continued diligently until completed. Failure to complete the work as specified for each site within fourteen (14) days may result in termination of the contract; unless the Contractor can show just cause for an extension.

6. QUANTITIES AND PRICING: The City cannot guarantee the quantity of work required during the term of the contract. The fees contained in the Contractor’s proposal shall remain firm and fixed for all work ordered by the City regardless of the actual quantity of work and regardless of whether or not work is actually ordered by the City.

**Prevailing Wage Rate Determination: SC-LML-2017-1**

7. LOCATIONS: Locations will vary within the City limits of Banning, CA.
Exhibit A

3 Acres or Less
Entirely Abated

More Than 3 Acres Abate as Shown Below

No Larger than 1 Acre
GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

CRAFT: **LANDSCAPE MAINTENANCE LABORER**
(APPLIES ONLY TO ROUTINE LANDSCAPE MAINTENANCE WORK NOT NEW LANDSCAPE CONSTRUCTION)

**DETERMINATION:** SC-LML-2017-1
**ISSUE DATE:** February 22, 2017
**EXPIRATION DATE OF DETERMINATION:** March 31, 2017* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director – Research Unit at (415) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

<table>
<thead>
<tr>
<th>LOCALITY:</th>
<th>Employer Payments</th>
<th>Straight-Time</th>
<th>Overtime</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Basic Hourly Rate</td>
<td>Health and Welfare</td>
<td>Pension</td>
</tr>
<tr>
<td>Imperial</td>
<td>$10.50</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Inyo, Mono and San Bernardino</td>
<td>10.50</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Kern</td>
<td>10.50</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Los Angeles</td>
<td>10.50</td>
<td>0.89</td>
<td>-</td>
</tr>
<tr>
<td>Orange</td>
<td>10.50</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Riverside</td>
<td>10.50</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>San Diego</td>
<td>10.50</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>San Luis Obispo</td>
<td>10.50</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Santa Barbara</td>
<td>10.50</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Ventura</td>
<td>10.50</td>
<td>2.97</td>
<td>-</td>
</tr>
</tbody>
</table>

*Craft is not apprenticeable.

**NOTE:** If there are two rates, the first rate is for routine work, the second rate is for complex work.

* $0.22 after 3 years of service.
* $0.22 after 4 years of service.
* $0.40 after 3 years of service.
* $0.23 after 2 years of service.
* $0.27 after 2 years of service.
* $0.31 after 2 years of service.
* $0.38 after 3 years of service.
* $0.24 after 3 years of service.
* $0.21 after 3 years of service.
* $0.29 after 2 years of service.
* $0.31 after 2 years of service.

*This determination does not apply to work of a landscape laborer employed on landscape construction (work incidental to construction or post-construction maintenance during the plant installation and establishment period). The following is a description of the landscape work cover under this determination:

**ROUTINE** – mowing, watering, pruning, trimming, weed control, spraying, occasional planting and replacement of plants and janitorial work incidental to such landscape maintenance.

**COMPLEX** – servicing of irrigation and sprinkler systems, repairing of equipment use in such landscape maintenance.

**RECOGNIZED HOLIDAYS:** Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at [http://www.dir.ca.gov/OPRI/DPWcWageDetermination.htm](http://www.dir.ca.gov/OPRI/DPWcWageDetermination.htm). Holiday provisions for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

**TRAVEL AND/OR SUBSISTENCE PAYMENT:** In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. You may obtain the travel and/or subsistence provisions for the current determinations on the Internet at [http://www.dir.ca.gov/OPRI/DPWcWageDetermination.htm](http://www.dir.ca.gov/OPRI/DPWcWageDetermination.htm). Travel and/or subsistence requirements for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

18C
SECTION III PROCEDURAL DOCUMENTS

(VENDOR APPLICATION AND SAMPLE AGREEMENT)
INVITATION FOR BID
17-012 WEED ABATEMENT SERVICES
VENDOR APPLICATION FORM

TYPE OF APPLICANT:  □ NEW  □ CURRENT VENDOR

Legal Contractual Name of Corporation: ____________________________

Contact Person for Agreement: ____________________________________

Title: __________________________ E-Mail Address: ___________________

Corporate Mailing Address: ________________________________________

City, State and Zip Code: _________________________________________

Phone: __________________________ Fax: ____________________________

Contact Person for Proposals: _____________________________________

Title: __________________________ E-Mail Address: ___________________

Business Telephone: __________________________ Business Fax: __________

Is your business: (check one)

□ NON PROFIT CORPORATION  □ FOR PROFIT CORPORATION

Is your business: (check one)

□ CORPORATION  □ LIMITED LIABILITY PARTNERSHIP

□ INDIVIDUAL  □ SOLE PROPRIETORSHIP

□ PARTNERSHIP  □ UNINCORPORATED ASSOCIATION
Names & Titles of Corporate Board Members
(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

<table>
<thead>
<tr>
<th>Names</th>
<th>Title</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Federal Tax Identification Number: ____________________________

City of Banning Business License Number: ______________________
(If none, you must obtain a Banning Business License upon award of contract.)

City of Banning Business License Expiration Date: ______________
CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN
THE CITY OF BANNING
AND

This AGREEMENT is entered into this ___ day of _______, 20___, by and between
the CITY OF BANNING, a general law city a municipal corporation ("CITY") and
______________, a California corporation ("CONSULTANT").

RECITALS

A. The City does not have the personnel able and/or available to perform the services
   required under this agreement.

B. Therefore, the City desires to contract out for consulting services for certain projects
   relating to preparation of documents in connection with a design project.

C. The Consultant warrants to the City that it has the qualifications, experience and
   facilities to perform properly and timely the services under this Agreement.

D. The City desires to contract with the Consultant to perform the services as described
   in Exhibit A of this Agreement.

NOW, THEREFORE, based on the foregoing recitals, the City and the Consultant
agree as follows:

1. CONSIDERATION AND COMPENSATION

   A. As partial consideration, CONSULTANT agrees to perform the work listed in
      the SCOPE OF SERVICES, attached as EXHIBIT A;

   B. As additional consideration, CONSULTANT and CITY agree to abide by the
      terms and conditions contained in this Agreement;

   C. As additional consideration, CITY agrees to pay CONSULTANT a total of
      $______, for CONSULTANT’s services, unless otherwise specified by written
      amendment to this Agreement.

   D. No additional compensation shall be paid for any other expenses incurred,
      unless first approved by the City Manager or his designee.

   E. CONSULTANT shall submit to CITY, by not later than the 10th day of each
      month, its bill for services itemizing the fees and costs incurred during the
      previous month. The City shall pay the Consultant all uncontested amounts set
      forth in the Consultant's bill within 30 days after it is received.
2. SCOPE OF SERVICES.

A. CONSULTANT will perform the services and activities set forth in the SCOPE OF SERVICE attached hereto as Exhibit A and incorporated herein by this reference.

B. Except as herein otherwise expressly specified to be furnished by CITY, CONSULTANT will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space, and facilities necessary or proper to perform and complete the work and provide the professional services required of CONSULTANT by this Agreement.

3. PAYMENTS. For CITY to pay CONSULTANT as specified by this Agreement, CONSULTANT must submit an invoice to CITY which lists the reimbursable costs, the specific tasks performed, and, for work that includes deliverables, the percentage of the task completed during the billing period.

4. TIME OF PERFORMANCE. The services of the CONSULTANT are to commence upon receipt of a notice to proceed from the CITY and shall continue until all authorized work is completed to the CITY's reasonable satisfaction, in accordance with the schedule incorporated in "Exhibit A," unless extended in writing by the CITY.

5. FAMILIARITY WITH WORK. By executing this Agreement, CONSULTANT represents that CONSULTANT has (a) thoroughly investigated and considered the scope of services to be performed; (b) carefully considered how the services should be performed; and (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.

6. KEY PERSONNEL. CONSULTANT's key person assigned to perform work under this Agreement is ___________. CONSULTANT shall not assign another person to be in charge of the work contemplated by this Agreement without the prior written authorization of the City.

7. TERM OF AGREEMENT. The term of this Agreement shall commence upon execution by both parties and shall expire on ____________, 20__, unless earlier termination occurs under Section 11 of this Agreement, or extended in writing in advance by both parties. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

8. CHANGES. CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by CONSULTANT and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.
9. **TAXPAYER IDENTIFICATION NUMBER.** CONSULTANT will provide CITY with a Taxpayer Identification Number.

10. **PERMITS AND LICENSES.** CONSULTANT will obtain and maintain during the term of this Agreement all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

11. **TERMINATION.**

   A. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause. Notice of termination shall be in writing.

   B. CONSULTANT may terminate this Agreement. Notice will be in writing at least 30 days before the effective termination date.

   C. In the event of such termination, the CONSULTANT shall cease services as of the date of termination, all finished or unfinished documents, data, drawings, maps, and other materials prepared by CONSULTANT shall, at CITY’s option, become CITY’s property, and CONSULTANT will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination.

   D. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.

12. **INDEMNIFICATION.**

   A. CONSULTANT shall indemnify, defend with counsel approved by CITY, and hold harmless CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT’s performance of work hereunder or its failure to comply with any of its obligations contained in this AGREEMENT, regardless of CITY’S passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the CITY. Should CITY in its sole discretion find CONSULTANT’S legal counsel unacceptable, then CONSULTANT shall reimburse the CITY its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The CONSULTANT shall promptly pay any final judgment rendered against the CITY (and its officers, officials, employees and volunteers) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

   B. The requirements as to the types and limits of insurance coverage to be maintained
by CONSULTANT as required by Section 17, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

13. ASSIGNABILITY. This Agreement is for CONSULTANT’s professional services. CONSULTANT’s attempts to assign the benefits or burdens of this Agreement without CITY’s written approval are prohibited and will be null and void.

14. INDEPENDENT CONTRACTOR. CITY and CONSULTANT agree that CONSULTANT will act as an independent contractor and will have control of all work and the manner in which is it performed. CONSULTANT will be free to contract for similar service to be performed for other employers while under contract with CITY. CONSULTANT is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct CONSULTANT as to the details of doing the work or to exercise a measure of control over the work means that CONSULTANT will follow the direction of the CITY as to end results of the work only.

15. AUDIT OF RECORDS.

A. CONSULTANT agrees that CITY, or designee, has the right to review, obtain, and copy all records pertaining to the performance of this Agreement. CONSULTANT agrees to provide CITY, or designee, with any relevant information requested and will permit CITY, or designee, access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this Agreement. CONSULTANT further agrees to maintain such records for a period of three (3) years following final payment under this Agreement.

B. CONSULTANT will keep all books, records, accounts and documents pertaining to this Agreement separate from other activities unrelated to this Agreement.

16. CORRECTIVE MEASURES. CONSULTANT will promptly implement any corrective measures required by CITY regarding the requirements and obligations of this Agreement. CONSULTANT will be given a reasonable amount of time as determined by the City to implement said corrective measures. Failure of CONSULTANT to implement required corrective measures shall result in immediate termination of this Agreement.

17. INSURANCE REQUIREMENTS.

A. The CONSULTANT, at the CONSULTANT’s own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies:

1. Workers Compensation Insurance as required by law. The Consultant shall require all subcontractors similarly to provide such compensation insurance for their respective
employees. Any notice of cancellation or non-renewal of all Workers’ Compensation policies must be received by the CITY at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against the CITY, its officers, agents, employees, and volunteers for losses arising from work performed by the CONSULTANT for City.

2. General Liability Coverage. The CONSULTANT shall maintain commercial general liability insurance in an amount of not less than one million dollars ($1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

3. Automobile Liability Coverage. The CONSULTANT shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONSULTANT arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired, and non-owned vehicles, in an amount of not less than one million dollars ($1,000,000) combined single limit for each occurrence.

4. Professional Liability Coverage. The CONSULTANT shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from the CONSULTANT’S operations under this Agreement, whether such operations be by the CONSULTANT or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars ($1,000,000) on a claims-made annual aggregate basis, or a combined single-limit-per-occurrence basis. When coverage is provided on a “claims made basis,” CONSULTANT will continue to renew the insurance for a period of three (3) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONSULTANT for all claims made by CITY arising out of any errors or omissions of CONSULTANT, or its officers, employees or agents during the time this Agreement was in effect.

B. Endorsements. Each general liability, automobile liability and professional liability insurance policy shall be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California, or which is approved in writing by City, and shall be endorsed as follows. CONSULTANT also agrees to require all contractors, and subcontractors to do likewise.

1. “The CITY, its elected or appointed officers, officials, employees, agents, and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the CONSULTANT, including materials, parts, or equipment furnished in connection with such work or operations.”

2. This policy shall be considered primary insurance as respects the CITY, its elected or appointed officers, officials, employees, agents, and volunteers. Any insurance
maintained by the CITY, including any self-insured retention the CITY may have, shall be considered excess insurance only and shall not contribute with this policy.

3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

4. The insurer waives all rights of subrogation against the CITY, its elected or appointed officers, officials, employees, or agents.

5. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents, or volunteers.

6. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days’ written notice has been received by the CITY.

C. CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against Consultant arising out of the work performed under this agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

D. Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the CITY’s option, the CONSULTANT shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

E. The CONSULTANT shall provide certificates of insurance with original endorsements to the CITY as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the CITY on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the CITY at all times during the term of this Agreement.

F. Failure on the part of the CONSULTANT to procure or maintain required insurance shall constitute a material breach of contract under which the CITY may terminate this Agreement pursuant to Section 11 above.

18. USE OF OTHER CONSULTANTS. CONSULTANT must obtain CITY’s prior written approval to use any consultants while performing any portion of this Agreement. Such approval must include approval of the proposed consultant and the terms of compensation.

19. FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE. The acceptance by the CONSULTANT of the final payment made under this Agreement shall operate as and be a release of the CITY from all claims and liabilities for compensation to the CONSULTANT for anything done, furnished or relating to the CONSULTANT’S work or services. Acceptance of payment shall be any negotiation of the CITY’S check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by the CITY shall not constitute, nor be deemed, a release of the responsibility and liability of the
CONSULTANT, its employees, sub-consultants and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the CITY for any defect or error in the work prepared by the Consultant, its employees, sub-consultants and agents.

20. **CORRECTIONS.** In addition to the above indemnification obligations, the CONSULTANT shall correct, at its expense, all errors in the work which may be disclosed during the City's review of the Consultant's report or plans. Should the Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by the CITY, and the cost thereof shall be charged to the CONSULTANT. In addition to all other available remedies, the City may deduct the cost of such correction from any retention amount held by the City or may withhold payment otherwise owed CONSULTANT under this Agreement up to the amount of the cost of correction.

21. **NON-APPROPRIATION OF FUNDS.** Payments to be made to CONSULTANT by CITY for services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that CITY does not appropriate sufficient funds for payment of CONSULTANT'S services beyond the current fiscal year, the Agreement shall cover payment for CONSULTANT'S only to the conclusion of the last fiscal year in which CITY appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

22. **NOTICES.** All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

<table>
<thead>
<tr>
<th>CITY</th>
<th>CONSULTANT</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Banning</td>
<td></td>
</tr>
<tr>
<td>99 East Ramsey Street</td>
<td></td>
</tr>
<tr>
<td>Banning, CA 92220</td>
<td></td>
</tr>
<tr>
<td>ATTN: City Manager</td>
<td>ATTN:</td>
</tr>
</tbody>
</table>

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above. In all other instances, notices will be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph. Courtesy copies of notices may be sent via electronic mail, provided that the original notice is deposited in the U.S. mail or personally delivered as specified in this Section.

23. **SOLICITATION.** CONSULTANT maintains and warrants that it has not employed nor retained any company or person, other than CONSULTANT's bona fide employee, to solicit or secure this Agreement. Further, CONSULTANT warrants that it has not paid nor has it agreed to pay any company or person, other than CONSULTANT's bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should CONSULTANT breach or violate this warranty, CITY may rescind this Agreement without liability.
24. **THIRD PARTY BENEFICIARIES.** This Agreement and every provision herein is generally for the exclusive benefit of CONSULTANT and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of CONSULTANT’s or CITY’s obligations under this Agreement.

25. **INTERPRETATION.** This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.

26. **ENTIRE AGREEMENT.** This Agreement, and its Attachments, sets forth the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written.

27. **RULES OF CONSTRUCTION.** Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

28. **AUTHORITY/MODIFICATION.** The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment with signatures of all parties to this Agreement. CITY’s city administrator, or designee, may execute any such amendment on behalf of CITY.

29. **ACCEPTANCE OF FACSIMILE OR ELECTRONIC SIGNATURES.** The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract will be considered signed when the signature of a party is delivered by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.

30. **FORCE MAJEURE.** Should performance of this Agreement be impossible due to fire, flood, explosion, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties’ control, then the Agreement will immediately terminate without obligation of either party to the other.

31. **TIME IS OF ESSENCE.** Time is of the essence to comply with dates and schedules to be provided.

32. **ATTORNEY’S FEES.** The parties hereto acknowledge and agree that each will bear his or its own costs, expenses and attorneys’ fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

33. **STATEMENT OF EXPERIENCE.** By executing this Agreement, CONSULTANT represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to
perform the Agreement in a manner satisfactory to CITY. CONSULTANT represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private consultants, and experience in dealing with public agencies all suggest that CONSULTANT is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public agency.

34. DISCLOSURE REQUIRED. (City and Consultant initials required at one of the following paragraphs)

By their respective initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is a “consultant” for the purposes of the California Political Reform Act because Consultant’s duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18701(a)(2) or otherwise serves in a staff capacity for which disclosure would otherwise be required were Consultant employed by the City. Consultant hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the City’s Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to consultant commencing services hereunder, the City’s Manager shall prepare and deliver to consultant a memorandum detailing the extent of Consultant’s disclosure obligations in accordance with the City’s Conflict of Interest Code.

City Initials ______
Consultant Initials ______

OR

By their initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is not a “consultant” for the purpose of the California Political Reform Act because Consultant’s duties and responsibilities are not within the scope of the definition of consultant in Fair Political Practice Commission Regulation 18701(a)(2)(A) and is otherwise not serving in staff capacity in accordance with the City’s Conflict of Interest Code.

City Initials ______
Consultant Initials ______
IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF BANNING

MICHAEL ROCK, CITY MANAGER

CONSULTANT

By:

NAME:
TITLE:

By:

NAME:
TITLE:

ATTEST:

Marie A. Calderon, City Clerk

APPROVED AS TO FORM:

John C. Cotti, Interim City Attorney

Two signatures are required if a corporation

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of __________________________

On _______________________ before me, ____________________________________________
Date
personally appeared ________________________________________________________________

Here Insert Name and Title of the Officer
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature __________________________________________________________

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: ___________________________
Document Date: ___________________________ Number of Pages: ___________________________
Signer(s) Other Than Named Above: ___________________________

Capacity(ies) Claimed by Signer(s)
Signer’s Name: ___________________________
☐ Corporate Officer — Title(s): ___________________________
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: ___________________________
Signer Is Representing: ___________________________

Signer’s Name: ___________________________
☐ Corporate Officer — Title(s): ___________________________
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: ___________________________
Signer Is Representing: ___________________________

©2015 National Notary Association • www.NationalNotary.org • 1-800-US NOTARY (1-800-876-6827) Item #5907
ATTACHMENT 3

(List of Weed Abatement Contractors Solicited)
<table>
<thead>
<tr>
<th>COMPANY</th>
<th>CONTACT</th>
<th>TITLE</th>
<th>TELEPHONE</th>
<th>EMAIL ADDRESS</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>BMP Solutions</td>
<td>Dustin Glazier</td>
<td>Head Estimator</td>
<td>951-204-6913 or</td>
<td><a href="mailto:dustin@123bmp.com">dustin@123bmp.com</a></td>
<td></td>
</tr>
<tr>
<td>Environmental Klean Up</td>
<td>Beverley Gann</td>
<td>Owner</td>
<td>951-685-5314</td>
<td><a href="mailto:envirokleanup@sbcglobal.net">envirokleanup@sbcglobal.net</a></td>
<td></td>
</tr>
<tr>
<td>Coleman Pipeline</td>
<td>Ken Coleman</td>
<td>Owner</td>
<td>909-322-6582</td>
<td><a href="mailto:colemanpipeline@gmail.com">colemanpipeline@gmail.com</a></td>
<td></td>
</tr>
<tr>
<td>Greg Anderson</td>
<td>Greg Anderson</td>
<td>Owner</td>
<td>951-928-1268 Office</td>
<td><a href="mailto:grantanderson@rocketmail.com">grantanderson@rocketmail.com</a></td>
<td></td>
</tr>
<tr>
<td>Deguire Weed Abatement</td>
<td>Matt Swoboda</td>
<td>Owner</td>
<td>951-943-8827</td>
<td><a href="mailto:daltonca@verizon.net">daltonca@verizon.net</a></td>
<td></td>
</tr>
<tr>
<td>West SWPPP Services</td>
<td>James Huss Jr.</td>
<td>Owner</td>
<td>909-478-4321</td>
<td><a href="mailto:westswppp@gmx.com">westswppp@gmx.com</a> or <a href="mailto:jdhussir65@gmail.com">jdhussir65@gmail.com</a></td>
<td>Both email addresses are good</td>
</tr>
<tr>
<td>Scott Tractor Service</td>
<td>Mary Scott</td>
<td>Owner</td>
<td>800-352-5333</td>
<td><a href="mailto:maryscott1366@yahoo.com">maryscott1366@yahoo.com</a></td>
<td></td>
</tr>
<tr>
<td>Saiz Landscaping</td>
<td>James Saiz</td>
<td>Owner</td>
<td>909-228-1483 Cell</td>
<td><a href="mailto:fishrtrembling@yahoo.com">fishrtrembling@yahoo.com</a> AND <a href="mailto:saizlandscaping@yahoo.com">saizlandscaping@yahoo.com</a></td>
<td>Fish email checked more frequently use mobile # for now, out of country.</td>
</tr>
<tr>
<td>James M. Doolittle Services</td>
<td>James Doolittle</td>
<td>Owner</td>
<td>951-849-2101</td>
<td><a href="mailto:flyingibard@verizon.net">flyingibard@verizon.net</a></td>
<td></td>
</tr>
<tr>
<td>Apple's Tractor Service</td>
<td>Marcy Herrera</td>
<td></td>
<td>562-756-7231</td>
<td><a href="mailto:marcy@appletractor.com">marcy@appletractor.com</a></td>
<td></td>
</tr>
</tbody>
</table>
ATTACHMENT 4

(Proposals Received)
SECTION 1.3
OF
PROCEDURAL DOCUMENTS
BID

Bid of Environmental Klean-Up
hereinafter called "bidder", organized and existing under the laws of the State of California, doing business as Environmental Kleanup Services, Inc.

* insert "a corporation", "a partnership", or "an individual", as applicable.

To the CITY OF BANNING, hereinafter called "Owner":

In compliance with your Invitation for Bid and Instruction to Bidders, Bidder hereby proposes to perform all work for the IFB NO. 17-012 "WEED ABATEMENT SERVICES" in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below.

By submission of this Bid, the Bidder certifies, and in the case of a joint Bid each party thereto certifies as to his own organization that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

Bidder hereby agrees that the Owner shall have a period of forty-five (45) calendar days after opening of bids within which to accept or reject the bids.

Bidder agrees to commence work under this contract on or before a date to be specified in the Notice to Proceed.

Bidder agrees that if the project is not fully completed within said time, he shall pay as liquidated damages, the sum of $750.00 for each calendar day thereafter as provided in the General Conditions, and that this amount shall be presumed to be the amount of damages sustained by Owner in the event of such a breach by Bidder, as it would be impractical or extremely difficult to fix the actual dam.
<table>
<thead>
<tr>
<th><strong>Handwork</strong> – The purpose of handwork is the removal of flammable vegetation along fence lines, around trees, around structures, and on properties not accessible by tractor or riding lawn mower. Also to dispose of flammable waste piles on property. When it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and, when authorized by the City representative, the vegetation shall be removed or thinned by hand labor.</th>
<th><strong>Hourly Rate</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$38.50</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Dicing</strong> – Weed abatement by dicing shall be accomplished by cultivating with a double-throw at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Diking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, due to reckless or negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.</th>
<th><strong>Per Acre Rate</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$73.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Photos</strong> – Date stamped photos taken before the work was started, and date stamped photos after the work is completed are to be included with each invoice produced for payment. The Contractor shall include a measuring device, pre-approved by the Contract officer, in all photos used to document the work product.</th>
<th><strong>Pricing per photo</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$.85</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Debris Removal:</strong> Removal of rubbish (including but not limited to scrap metals, disassembled parts of automobiles or machinery, furniture, mattresses, tires, concrete, asphalt, bricks or other construction or demolition materials, debris, litter, cardboard, metal cans, glass, cut brush, dead trees, tree limbs and similar materials) and other garbage.</th>
<th><strong>Hourly Rate:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$320.00 / $45 per Hour</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Other:</strong></th>
<th><strong>Fees/Rate Structure</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Mowing</td>
<td>$73.00</td>
</tr>
</tbody>
</table>
SECTION 1.3
OF
PROCEDURAL DOCUMENTS

BID

Bid of Southern California Advanced Builders, Inc.,
hereinafter called "bidder", organized and existing under the laws of the State of California, doing business as a corporation.

* insert "a corporation", "a partnership", or "an individual", as applicable.

To the CITY OF BANNING, hereinafter called "Owner":

In compliance with your Invitation for Bid and Instruction to Bidders, Bidder hereby proposes to perform all work for the IFB NO. 17-012 "WEED ABATEMENT SERVICES" in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below.

By submission of this Bid, the Bidder certifies, and in the case of a joint Bid each party thereto certifies as to his own organization that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

Bidder hereby agrees that the Owner shall have a period of forty-five (45) calendar days after opening of bids within which to accept or reject the bids.

Bidder agrees to commence work under this contract on or before a date to be specified in the Notice to Proceed.

Bidder agrees that if the project is not fully completed within said time, he shall pay as liquidated damages, the sum of $750.00 for each calendar day thereafter as provided in the General Conditions, and that this amount shall be presumed to be the amount of damages sustained by Owner in the event of such a breach by Bidder, as it would be impractical or extremely difficult to fix the actual dam.
# BID SCHEDULE

**IFB NO. 17-012 “WEED ABATEMENT SERVICES”**

<table>
<thead>
<tr>
<th>Task</th>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Handwork</strong></td>
<td>The purpose of handwork is the removal of flammable vegetation along fence lines, around trees, structures, and on properties not accessible by tractor or riding lawn mower. Also to dispose of flammable waste piles on property. When it is impractical by reason of topography, location of trees, sprinkler systems, shrubbery, buildings, fences or type of vegetation cover to disk and, when authorized by the City representative, the vegetation shall be removed or thinned by hand labor.</td>
<td>$50.00</td>
</tr>
<tr>
<td><strong>Discal</strong></td>
<td>Weed abatement by discing shall be accomplished by cultivating with a double-throw at sufficient depth turning and loosening the soil, placing all weeds under the soil surface. Disking is the plowing of weeds using reasonable care so as to not disturb under/over ground utilities, destruction to fencing, buildings, equipment, supplies or adjoining land, due to reckless or negligent plowing of land. The requirement for the finished product shall be clearance between the property that has the debris and other adjoining parcels of land.</td>
<td>$100.00</td>
</tr>
<tr>
<td><strong>Photos</strong></td>
<td>Date stamped photos taken before the work was started, and date stamped photos after the work is completed are to be included with each invoice produced for payment. The Contractor shall include a measuring device, pre-approved by the Contract officer, in all photos used to document the work product.</td>
<td>$1.00</td>
</tr>
<tr>
<td><strong>Debris Removal:</strong></td>
<td>Removal of rubbish (including but not limited to scrap metals, disassembled parts of automobiles or machinery, furniture, mattresses, tires, concrete, asphalt, bricks or other construction or demolition materials, debris, litter, cardboard, metal cans, glass, cut brush, dead trees, tree limbs and similar materials) and other garbage.</td>
<td>$50.00</td>
</tr>
<tr>
<td><strong>Other:</strong></td>
<td>Fees/Rate Structure</td>
<td>N/A</td>
</tr>
</tbody>
</table>
ADDENDA

Bidder acknowledges receipt of the following Addenda:

Addendum No.:_________       DATED: 4/21/10
Addendum No.:_________       DATED:________
Addendum No.:_________       DATED:________

NOTE: All addenda shall be signed by the Bidder and submitted with the bid package.
CITY OF BANNING
99 EAST RAMSEY ST., PO BOX 998, BANNING, CA 92220-0998

ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION

IFB NO. 17-012 WEED ABATEMENT SERVICES

Submitted to the City website 04/04/17

RESPONSES TO ALL QUESTIONS ARE IN RED

1. Do I have to have certified payroll if I’m the only one doing work (owner operator)? This information can be found on the State of California Department of Industrial Relations website. http://www.dir.ca.gov/default.html.

2. What is the prevailing wage amount per worker (labor)? Exhibit B in the IFB documents is the prevailing wage rate determination. (SC-LML-2017-1)

3. What is the pay period? Standard Agreement Terms: “CONSULTANT shall submit to CITY, by not later than the 10th day of each month, its bill for services itemizing the fees and costs incurred during the previous month. The City shall pay the Consultant all uncontested amounts set forth in the Consultant’s bill within 30 days after it is received.”

4. Is there a possibility of incorporating goats as weed abatement/fuel modification in your city? No. The use of goats is not authorized under the weed abatement scope of work.
CITY OF BANNING
STATE OF CALIFORNIA
NOTICE INVITING TO BID

IFB NO. 17-018 WEED ABATEMENT SERVICES

OWNER: City of Banning.

PROJECT DESCRIPTION: The scope of work consists of providing labor, materials and equipment to complete professional weed abatement services at various locations throughout the City of Banning.

INVITATION FOR BID/SPECIFICATIONS: Download from our website in PDF form at http://ci.banning.ca.us/bids.aspx.

QUESTIONS REGARDING PROJECT: Any questions pertaining to this Invitation for Bid shall be directed to Jennifer McCoy at jmccoy@ci.banning.ca.us. Deadline for submittal of bid Request for Information (RFIs) is March 30, 2017 by 10:00 a.m. local time. All addendums will be made available on the City’s website. All contractors are fully responsible for obtaining addendum material.

REQUIREMENTS: Prevailing Wage, Certified Payroll, and Insurance. The successful bidder shall meet all insurance requirements of the City, including $1,000,000 per occurrence for General, Automobile, Professional, and Employer’s Liability. Insurance shall name the City of Banning as additional insured. No bid will be considered unless it is made on a proposal form furnished by the City.

SEALED BIDS DUE: On or before April 7, 2017 by 2:00 p.m. local time, at City Hall, 99 E. Ramsey St., Banning, CA 92220, Attn: Jennifer McCoy. Bid will be opened publically and read out loud.

CITY OF BANNING, CALIFORNIA
Dated: 03/24/17 and 03/31/17
/s/ Jennifer McCoy
Purchasing Manager
STATE OF CALIFORNIA

COUNTY OF Riverside

being first duly sworn, the party making the
(Name of Bidder) Southern California Advanced Bidders, Inc.

foregoing bid; that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

(Signature)
Amy Pierson
(Typed Name)

SUBSCRIBED BEFORE ME on this 6th day of April, 2017.

Notary Public

My commission Expires:

July 14th, 2018

IFB No. 17-412
"Weed Abatement Services"
DECLARATION OF ACCURACY

I, the undersigned, declare under penalty of perjury that the information presented in this bid, including without limitation the Contractor's license number and expiration date, are true and correct to the best of my knowledge. The bid of any Bidder not signed by the Bidder, or not containing the Bidder's license number and license expiration date, or containing information which is subsequently proven false, shall be considered non-responsive and shall be rejected.

Southern California Advanced Builders, Inc

Name

Signature

Title

Date

Contractor's License No.

Federal ID No. (If applicable)

Address

City, State, Zip

Telephone

Type of License

Expiration Date of License

(SEAL - if Bid is by a corporation)

ATTEST
CERTIFICATION
LABOR CODE - SECTION 1861

I, the undersigned Contractor, am aware of the provisions of Section 3700 et. Seq. of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I, the undersigned Contractor, agree to and will comply with such provisions before commencing the performance of the Work of this Contract.

Contractor agrees to utilize federal job classifications for the submittal of the certified payrolls and further agrees to pay all of its employees the higher of the prevailing State or Federal wages.

CONTRACTOR:

SOUTHERN CALIFORNIA ADVANCED BUILDERS, INC.

Firm Name

By:

CEO

Title
QUESTIONNAIRE REGARDING BIDDERS

Number of years engaged in the contracting business under present business name

9 years

List of at least the last three contracts performed which show experience in working on a project of a nature similar to that covered in this proposal. If none, so indicate. Attach separate list of references if necessary.

<table>
<thead>
<tr>
<th>Year</th>
<th>Type of Work</th>
<th>Contract Amt.</th>
<th>Location</th>
<th>Contact person/phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>Weed Abatement</td>
<td>varied</td>
<td>Different locations</td>
<td>Wendell Turner</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>throughout the years</td>
<td>901-764-9355</td>
</tr>
<tr>
<td>2002</td>
<td>Weed Abatement</td>
<td>varied</td>
<td></td>
<td>Pete Tripp</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>961-968-9910</td>
</tr>
<tr>
<td>2003</td>
<td>Weed Abatement</td>
<td>varied</td>
<td></td>
<td>Randy Gordon</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>909-645-4949</td>
</tr>
</tbody>
</table>

State of California Contractor’s License

No.: 908125

Contractor’s License Expiration Date:

12/31/17
INVITATION FOR BID
17-012 WEED ABATEMENT SERVICES
VENDOR APPLICATION FORM

TYPE OF APPLICANT: □ NEW  ☑ CURRENT VENDOR

Legal Contractual Name of Corporation: Southern California Advanced Builders, Inc.

Contact Person for Agreement: Amy Pippenger

Title: CEO  E-Mail Address: advanced.builders2@yahoo.com

Corporate Mailing Address: 42200 Death Valley Rd

City, State and Zip Code: Banning, CA 92220

Phone: 909-556-1344  Fax: ______________________

Contact Person for Proposals: Jason Pippenger

Title: CFO  E-Mail Address: advanced.builders2@yahoo.com

Business Telephone: 909-556-1344  Business Fax: ______________________

Is your business: (check one)

□ NON PROFIT CORPORATION  ☑ PRIVATE PROFIT CORPORATION

Is your business: (check one)

☑ CORPORATION  □ LIMITED LIABILITY PARTNERSHIP

□ INDIVIDUAL  □ SOLE PROPRIETORSHIP

□ PARTNERSHIP  □ UNINCORPORATED ASSOCIATION
Names & Titles of Corporate Board Members
(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

<table>
<thead>
<tr>
<th>Names</th>
<th>Title</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jason Rippenger</td>
<td>CFO</td>
<td>909-556-1344</td>
</tr>
<tr>
<td>Amy Rippenger</td>
<td>CEO</td>
<td>909-709-2429</td>
</tr>
</tbody>
</table>

Federal Tax Identification Number: 27-3158467

City of Banning Business License Number: 032153 exp 06/30
(If none, you must obtain a Banning Business License upon award of contract.)

City of Banning Business License Expiration Date: ______________________
<table>
<thead>
<tr>
<th>Date</th>
<th>City</th>
<th>County</th>
<th>Registration Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/30/2017</td>
<td></td>
<td></td>
<td>Advanced Builders, Inc.</td>
</tr>
<tr>
<td>12/28/2016</td>
<td></td>
<td></td>
<td>SOUTHERN CALIFORNIA</td>
</tr>
</tbody>
</table>
ATTACHMENT 5

(Proof of Publications)
<table>
<thead>
<tr>
<th>Ad Order Number</th>
<th>0010920673</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales Representative</td>
<td>Nick Eller</td>
</tr>
<tr>
<td>Order Taker</td>
<td>Nick Eller</td>
</tr>
<tr>
<td>Order Source</td>
<td>Select Source</td>
</tr>
<tr>
<td>Current Queue</td>
<td>Ready</td>
</tr>
<tr>
<td>Tear Sheets</td>
<td>0</td>
</tr>
<tr>
<td>Affidavits</td>
<td>0</td>
</tr>
<tr>
<td>Customer</td>
<td>BANNING, CITY OF</td>
</tr>
<tr>
<td>Customer Account</td>
<td>5209534</td>
</tr>
<tr>
<td>Customer Address</td>
<td>99 E RAMSEY ST BANNING, CA 92220</td>
</tr>
<tr>
<td>Customer Phone</td>
<td>951-922-3130</td>
</tr>
<tr>
<td>Invoice Text</td>
<td>IFB #17-012 Legal Advertisement</td>
</tr>
<tr>
<td>Payer Customer</td>
<td>BANNING, CITY OF</td>
</tr>
<tr>
<td>Payer Account</td>
<td>5209534</td>
</tr>
<tr>
<td>Payer Address</td>
<td>99 E RAMSEY ST BANNING, CA 92220</td>
</tr>
<tr>
<td>Payer Phone</td>
<td>951-922-3130</td>
</tr>
<tr>
<td>PO Number</td>
<td>C00156</td>
</tr>
<tr>
<td>Ordered By</td>
<td>Jennifer McCoy</td>
</tr>
<tr>
<td>Customer Fax</td>
<td></td>
</tr>
<tr>
<td>Customer EMail</td>
<td></td>
</tr>
<tr>
<td>Special Pricing</td>
<td></td>
</tr>
</tbody>
</table>
### Order Charges:

<table>
<thead>
<tr>
<th>Net Amount</th>
<th>Tax Amount</th>
<th>Total Amount</th>
<th>Payment Amount</th>
<th>Amount Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>243.60</td>
<td>0.00</td>
<td>243.60</td>
<td>0.00</td>
<td>$243.60</td>
</tr>
</tbody>
</table>

If this confirmation includes an advertising proof, please check your proof carefully for errors, spelling, and/or typos. Errors not marked on the returned proof are not subject to credit or refunds.

Please note: To meet our printer’s deadline, we must have your proof returned by the published deadline, and as indicated by your sales rep.

Please note: If you pay by bank card, your card statement will show the merchant as "ScCal Newspaper Group".
I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated as a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737. That the notice, of which the annexed is a copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

March 24, 31, 2017

Executed on: 03/31/2017
At Banning, CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Signature
ATTACHMENT 6

(Bid Tabulations and Contractor References)
## CITY OF BANNING
### IFB No. 17-012 Weed Abatement Services

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>UNIT OF MEASURE</th>
<th>Southern California Advanced Builders, Inc.</th>
<th>Environmental Klean-Up</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Price</td>
<td>Price</td>
</tr>
<tr>
<td>1 Hand Work</td>
<td>Hourly</td>
<td>$ 50.00</td>
<td>$ 38.50</td>
</tr>
<tr>
<td>2 Discing</td>
<td>Per Acre</td>
<td>$ 100.00</td>
<td>$ 73.00</td>
</tr>
<tr>
<td>3 Photos</td>
<td>Per Photo</td>
<td>$ 1.00</td>
<td>$ 0.85</td>
</tr>
<tr>
<td>4 Debris Removal</td>
<td>Hourly</td>
<td>$ 50.00</td>
<td>$ 320.00</td>
</tr>
<tr>
<td>5 Other: Mowing</td>
<td>Hourly</td>
<td>n/a</td>
<td>$ 73.00</td>
</tr>
<tr>
<td>6 Contractor's License</td>
<td></td>
<td>#908125 - Exp. 12/31/17</td>
<td>#1008604 - Exp. 11/02/17</td>
</tr>
<tr>
<td>7 Type of License(s)</td>
<td></td>
<td>B - General Building Contractor</td>
<td>B, C/21, C/27, C/61, D/40, C22. Lead</td>
</tr>
</tbody>
</table>

**Vendor Packet Information**

**Contact Person for Agreement**
- **Title:** CEO
- **Email Address:** Advancedbuilders2@yahoo.com
- **Address:** 42200 Death Valley Road
- **City, State & Zip:** Banning, Ca 92220
- **Phone:** 909-556-1344

**Contact Person for Agreement**
- **Title:** Owner/CEO
- **Email Address:** Envirokleanup@sbcglobal.net
- **Address:** 19069 Van Buren Blvd., Ste 114-385
- **City, State & Zip:** Riverside, Ca 92508
- **Phone:** 951-685-5314

---

Jennifer McCoy
Purchasing Manager
<table>
<thead>
<tr>
<th>CONTRACTOR</th>
<th>ENVIRONMENTAL KLEAN-UP</th>
<th>SO. CAL ADVANCED BUILDERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency</td>
<td>City of Riverside</td>
<td>Coldwell Banker</td>
</tr>
<tr>
<td>Respondent &amp; Title</td>
<td>Gary Merk</td>
<td>Pete Tripp, Associate</td>
</tr>
<tr>
<td>What type of work did they do for you?</td>
<td>Not stated</td>
<td>Trash out and repairs for REO Properties.</td>
</tr>
<tr>
<td>City of Moreno Valley</td>
<td>City of Perris</td>
<td>Wendell Turner (no company name given)</td>
</tr>
<tr>
<td>Dollar Amount Est.</td>
<td>$300K over 3 year contract</td>
<td>$50,000</td>
</tr>
<tr>
<td>How would you rate this consultant on total Cost?</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>City of Riverside (2nd reference non-responsive)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>On Timeliness?</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>On Problem Responsiveness?</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>On Quality of Service?</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>On Attitude of Personnel?</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>If you had to go out and bid today for a similar project, would you choose this firm again?</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>What are the strengths about this firm?</td>
<td>Responsiveness, Flexibility</td>
<td>They have always met or exceeded my expectations.</td>
</tr>
<tr>
<td>What are the weaknesses of this firm?</td>
<td>N/A</td>
<td>They get pretty busy so I have to wait my turn sometimes.</td>
</tr>
<tr>
<td>Did they exceed their proposal cost?</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>If so, by how much?</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>If applicable, do you feel the exceeded costs were justified?</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Additional Comments</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
THIS PAGE LEFT BLANK INTENTIONALLY
TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Ted Shove, Economic Development Manager

MEETING DATE: June 13, 2017

SUBJECT: Consider Adopting Resolution 2017-58 Approving an Access Easement Deed and Agreement with Banning Industrial, LP

RECOMMENDED ACTION:

It is recommended that City Council consider:

1. Adopting Resolution 2017-58 approving an Access Easement Deed and Agreement with Banning Industrial, LP for primary and secondary access and a utility easement to their property through City-owned property for the proposed development of a 1,000,000 square foot distribution center;

2. Authorizing the Mayor to execute the agreement; and

3. Authorizing the City Attorney to take such additional, related action that may be necessary.

COMMITTEE RECOMMENDATION:

On May 10, 2017, the Economic Development Ad hoc Committee reviewed the project and conceptual placement of the access and utility easements, provided input and recommended approval.
**BACKGROUND:**

In 2007, Bill Messenger of MIC Holdings, LLC submitted and the City approved a Tentative Parcel Map (TPM 34335) for a project that included subdividing the existing parcel into three lots and to accommodate a future development with a building of up to 1,000,000 square feet. During this process, all environmental review was completed and a Mitigate Negative Declaration was approved on October 22, 2007.

Unfortunately, the project stalled with the Great Recession ceasing most new development projects throughout the nation, especially California. Mr. Messenger has regrouped and is again moving forward with the project known as Banning Industrial, L.P. With the lapse in time, the project is undergoing additional environmental review required by the California Environmental Quality Act (CEQA), in addition to further analysis to traffic and utilities. In order to complete these studies and move the project forward for consideration and approval, the project requires some definition to both access and utility alignment.

Representatives from Banning Industrial, L.P. have worked with the City in developing conceptual access and utility alignments contained in the agreement being considered. Conceptual alignment, in context, would provide for further environmental analysis and would then provide exact definition to the conceptual alignments. The three proposed alignments depicted in Attachment 2 would not change their general location, but provide exact width and depth parameters based upon the findings of further analyses.

**ISSUES/ANALYSIS:**

Banning Industrial, L.P. is a project that was stalled for an extended period due to the Great Recession. The applicant has regrouped and is moving forward with the project. The project includes 990,000 square feet of warehouse, 10,000 square feet of office space on approximately 64 acres with associated parking and detention basins. Building and site design plans have been submitted, and an environmental document is being prepared to address the current proposal inclusive of offsite improvements and addressing current conditions.

The Access Easement Deed and Agreement seeks to provide Banning Industrial, L.P. with easements along and across sections of the Banning Municipal Airport. These easements have been fashioned in a manner that will not interfere with current operations. The Agreement has included flexibility to relocate access easements to accommodate future reuse of the airport site. In addition, the agreement has an expiration date of ten years to commence and twelve years to complete construction.

Should the Council approve this agreement, the City will provide an opportunity for significant private capital investment that would lead to both the stimulation of jobs for residents and long term revenues (i.e. property and sales tax revenue).
Staff recommends the Council approve this agreement to stimulate industrial development; spur capital investment and job creation on the east side of town; and contribute to long term revenue enhancement for the City.

**FISCAL IMPACT:**

There are no direct fiscal impacts associated with approving this agreement.

**ALTERNATIVES:**

1. Approve Access Easement Deed and Agreement with Banning Industrial, LP.
2. Reject Access Easement Deed and Agreement and provide staff with alternative direction.

**ATTACHMENTS:**

1. Resolution 2017-58
2. Diagram of Proposed Access and Utility Easements
3. License Agreement (signed by applicant)

Approved by:

[Signature]

Michael Rock
City Manager
ATTACHMENT 1
RESOLUTION 2017-58

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING ACCESS EASEMENT DEED AND AGREEMENT WITH BANNING INDUSTRIAL, LP.

WHEREAS, on September 22, 2007, the City approved Tentative Parcel Map (TPM) 34335 and its related Mitigated Declaration for a 1,000,000 square foot building directly north of the eastern portion of the Banning Municipal Airport; and

WHEREAS, in the time since TPM 34335 was approved, now known as Banning Industrial, L.P., the project stalled as a result of new construction and development activity significantly decreasing nationwide caused by the Great Recession; and

WHEREAS, on August 19, 2016, Banning Industrial, L.P. submitted a design review application, as a result in the significant time lapse, additional CEQA regulations including updated analysis on traffic and utility impacts are now required prior to the project being considered for approval; and

WHEREAS, Banning Industrial, L.P. has worked with the City to develop an Access Easement Deed and Agreement that would grant access and utility connections to the project from the Banning Municipal Airport, which currently land locks the project; and

WHEREAS, the Access Easement Deed and Agreement will provide conceptual easements until the conclusion of the required studies that would precisely describe easement locations for access and utility connections which would remain within close proximity to the conceptual locations identified in the Agreement; and

WHEREAS, with both access and utility connections to the site, Banning Industrial, L.P. may complete its required environmental analyses and seek final approval for the development of its project that would create significant community benefits such as stimulation of new jobs and enhanced revenue for the City in the form of property and sales tax; and

WHEREAS, the Agreement will create both job creation opportunities and substantial economic benefits for the community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

1. Resolution No. 2017-58 is approved authorizing an Access Easement Deed and Agreement with Banning Industrial, L.P.; and

2. The City Council authorizes the Mayor for the City of Banning to execute Agreement in the form that is approved by the City Attorney.
PASSED, APPROVED AND ADOPTED this 13th day of June, 2017.

______________________________
George Moyer, Mayor
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

______________________________
John C. Cotti, Interim City Attorney
City of Banning, California

ATTEST:

______________________________
Marie A. Calderon, City Clerk
City of Banning, California

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2017-58 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 13th day of June, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Marie A. Calderon, City Clerk
City of Banning, California
ATTACHMENT 2
ATTACHMENT 3
ACCESS EASEMENT DEED AND AGREEMENT

This ACCESS EASEMENT DEED AND AGREEMENT ("Agreement") is made effective as of the 24th day of January, 2017, by and between CITY OF BANNING ("Grantor") and BANNING INDUSTRIAL LP, a California limited partnership ("Grantee").

Recitals

A. Grantee owns that certain real property located in the County of Riverside, State of California, more particularly described on Exhibit A attached hereto and incorporated in this Agreement by reference (the "Grantee Property").

B. Grantor is the owner of that certain real property located in the City of Banning, County of Riverside, State of California, more particularly described on Exhibit B attached hereto and incorporated in this Agreement by reference (the "Grantor Property").

C. Grantor desires to grant and Grantee desires to obtain an access easement for emergency fire service over the Grantor Property on the terms and conditions hereinafter set forth in this Agreement.

D. Further, Grantor desires to grant and Grantee desires to obtain an access easement for extension of John Street and Street "A" identified on Tentative Parcel Map 34335 over the Grantor Property for ingress and egress and utilities on the terms and conditions hereinafter set forth in this Agreement.

E. Finally, Grantor desires to grant and Grantee desires to obtain utility easements over the Grantor Property on the terms and conditions hereinafter set forth in this Agreement.

NOW, THEREFORE, in consideration of the recitals above and the covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Agreement

1. Fire Emergency Access Easement. Grantor hereby grants and conveys to Grantee, and its successors and assigns as owners of any or all of the Grantee Property, and
Grantee hereby accepts from Grantor a nonexclusive perpetual easement, right and privilege over and across the Grantor Property (the "Emergency Access Easement") in the approximate location depicted on Exhibit C attached hereto and incorporated in this Agreement by reference, for access, ingress and egress to and from the Grantee Property for the purposes of constructing, using, maintaining and repairing a secondary emergency access road. The road is to be used for emergency purposes only. The exact location of the Emergency Access Easement shall be determined by Grantor’s engineers after the appropriate surveys are complete and this Agreement shall be subsequently amended to legally describe such Emergency Access Easement. This grant does not include the right to install utilities of any nature including, without limitation, fiber optic, cable television, telephone, electrical, gas, water or sewer or any utility. This Access Easement is contingent upon Grantee constructing Banning Distribution Center in a safe condition and as reasonably required by the City. Should Grantee fail to commence construction within ten (10) years or complete construction within twelve (12) years, this Access Agreement shall terminate and Grantee shall have no interest in the Grantor Property.

2. John Street and “A” Street Access Easement. Grantor hereby grants and conveys to Grantee, and its successors and assigns as owners of any or all of the Grantor Property, and Grantee hereby accepts from Grantor an exclusive perpetual easement, right and privilege over and across the Grantor Property (the "John Street Access Easement") in the approximate location depicted on Exhibit D attached hereto and incorporated in this Agreement by reference, for access, ingress and egress to and from the Grantor Property and for the purposes of constructing, installing below the surface and maintaining all utilities, including but not limited to cable, television, fiber optic cable, telephone, electricity, gas, water, sewer and any other commonly used utility or service. Grantee may, in Grantee’s sole discretion improve such John Street Access easement at Grantee’s sole cost and expense. There shall be no restriction on Grantor’s use of the John Street Access easement for ingress and egress or installation of utilities. The exact location of the John Street Access Easement shall be determined by Grantor’s engineers after appropriate surveys are complete and this Agreement shall be subsequently amended to legally describe such easement. This John Street Access Easement is contingent upon Grantee constructing Banning Distribution Center in a safe condition and as reasonably required by the City. Should Grantee fail to commence construction within ten (10) years or complete construction within twelve (12) years, this Access Agreement shall terminate and Grantee shall have no interest in the Grantor Property.

3. Utility Access Easement. Grantor hereby grants and conveys to Grantee, and its successors and assigns as owners of any or all of the Grantor Property, and Grantee hereby accepts from Grantor a nonexclusive perpetual easement, right and privilege over and across the Grantor Property (the “Utility Access Easement”) generally in the location set forth conditions of approval for the Banning Distribution Center dated October 22, 2007, for purposes of constructing utilities. Such utilities include but are not limited to fiber optic cable, television, telephone, electricity, gas, water and sewer and any other commonly used utilities or service. The exact location of the utility infrastructure will be added to the easement deed by amendment at a later date when such exact location is identified by Grantor and Grantee. This Utility Easement is contingent upon Grantee constructing Banning Distribution Center in a safe condition and as reasonably required by the City. Should Grantee fail to commence construction within ten (10) years or complete construction within twelve (12) years, this Access Agreement shall terminate and Grantee shall have no interest in the Grantor Property.
4. **Running Covenants.** This Easement Deed and Agreement is made pursuant to Section 1468 of the California Civil Code. The covenants of Grantee contained herein are made for the benefit of the Grantee Property, shall run with the Grantee Property, shall be binding upon Grantee and upon its successors and assigns during any successor's or assign's ownership of the Grantee Property or any portion thereof or interest therein, and be binding on Grantee and Grantee Property and its successors and assigns during any successor's or assign's ownership of Grantee Property or a portion thereof or interest therein. In furtherance thereof, the term "Grantee" as used herein shall mean the Grantee herein first named and the successor and assigns thereof, during the time such Grantee own any interest in such Grantee Property; provided, however, that the term "Grantee" as used in Paragraph 5, shall refer to the Grantee owning such interest at the time of an act or omission giving rise to liability, damage, loss, cost, expense or claim.

5. **Indemnification.** Grantee shall indemnify, defend and hold harmless Grantor and its respective affiliates, officers, directors, partners, shareholders, attorneys, employees, agents, contractors, successors and assigns (collectively, the "**Indemnified Parties**") from and against any and all obligations, liabilities, claims, demands, suits, liens, encumbrances, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) relating to the use by Grantee and its successors, agents, contractors, licensees and invitees of the Emergency Access Easement, John Street Access Easement and Utility Access Easement or breaches of this Agreement by Grantee and its successors and assigns, including for loss of or damage to property, including, without limitation, the property of each of the Indemnified Parties, and for injuries to or death of any person (including, without limitation, the agents and employees of each of the Indemnified Parties) (each, a "**Claim**"), unless such Claim is due to the gross negligence or willful misconduct of any of the Indemnified Parties. The obligations under this Section 5 shall survive the expiration or earlier termination of this Agreement.

6. **Insurance.** At all times during the term of this Agreement, Grantee, at its sole cost and expense, shall procure and maintain in effect a commercial general liability insurance policy with a financially responsible insurance company reasonably acceptable to Grantor (which must have at least a Best’s rating of A-:VII), covering (i) the activities of Grantee, and (ii) the indemnity obligations of Grantee set forth in this Agreement. Grantee shall deliver to Grantor a certificate of insurance for the commercial general liability insurance policy prior utilizing the access agreement for the purposes listed in Section 1 of this agreement. Such insurance policy shall have a per occurrence limit of at least One Million and No/100 Dollars ($1,000,000.00) and an aggregate limit of at least Three Million and No/100 Dollars ($3,000,000.00), shall name Grantor as an additional insured, shall be primary and non-contributing with any other insurance available to Grantor and shall contain a full waiver of subrogation clause.

7. **Recordation.** This Agreement shall be recorded in the Official Records of Riverside County, California.

8. **Time of Essence.** Time is of the essence in this Agreement.

9. **Attorneys' Fees.** In the event of any controversy, claim or dispute relating to this Agreement or the breach of this Agreement, the prevailing party shall be entitled to recover from
the losing party, in addition to any other relief that may be granted, reasonable expenses, attorneys' fees and costs.

10. **Captions.** The captions in this Agreement are for convenience only and are not a part of this Agreement. The captions do not in any way limit or amplify the provisions of this Agreement, and shall not affect the construction or interpretation of any of its provisions.

11. **Amendment.** This Agreement may not be modified, changed, supplemented, superseded, canceled or terminated (unless terminated as provided herein), nor may any obligations hereunder be waived, except by written instrument signed by the parties hereto.

12. **Relocation.** Should the Property cease to be used as an airport, the Emergency Access easement may have to be relocated. In such event, Grantor shall provide a replacement emergency access easement which satisfies all governmental regulations and laws at no cost to Grantee and its successors and assigns.

13. **Counterparts.** This Agreement may be signed in counterpart by the parties hereto, and the signature pages and accompanying acknowledgments of all parties may thereafter be assembled as a single Agreement for recordation purposes, creating a fully executed Agreement, enforceable against the parties thereto.

[signature page follows]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

"GRANTOR"

THE CITY OF BANNING,

By: ___________________________ Date: ____________, 20___

Name: ___________________________

Its: ___________________________

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California   )

County of __________ )

On ____________, 20___, before me, __________________________, a Notary Public, personally appeared __________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ___________________________ (Seal)

[signature page follows]
"GRANTEE"

BANNING INDUSTRIAL LP,
a California limited partnership

By: ___________________________ Date: May 24, 2017
Name: A. Sue Smith
Its: Vice Pres of
General Partner

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On May 24, 2017, before me, Dena Kennedy, a Notary Public, personally appeared A. Sue Smith, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ___________________________ (Seal)

Dena Kennedy
COMM. # 2113519
NOTARY PUBLIC CALIFORNIA
ORANGE COUNTY
EXHIBIT A

Legal Description of the Grantee Property

[TO BE ATTACHED PRIOR TO EXECUTION]
EXHIBIT B

Legal Description of the Grantor Property

[TO BE ATTACHED PRIOR TO EXECUTION]
EXHIBIT C

Legal Description of Emergency Access Easement

[TO BE ATTACHED PRIOR TO EXECUTION]
EXHIBIT D
Legal Description of the John Street Access Easement

[TO BE ATTACHED PRIOR TO EXECUTION]
THIS PAGE LEFT BLANK INTENTIONALLY
TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Ted Shove, Economic Development Manager

MEETING DATE: June 13, 2017

SUBJECT: Consider Adopting Resolution 2017-59 Approving Agreement for the Reverter of Real Property Pursuant to Purchase and Sale Agreement with Banning Office Venture, LLC. and Vanir Group of Companies, Inc.

RECOMMENDED ACTION:

It is recommended that City Council consider:

1. Adopting Resolution 2017-59 approving an Agreement for the Reverter of Real Property Pursuant to Purchase and Sale Agreement with Banning Office Venture, LLC. and Vanir Group of Companies, Inc. settling an existing litigation claim by the City;

2. Authorizing the Mayor to execute the agreement; and

3. Authorizing the City Attorney to take such additional, related action that may be necessary.

BACKGROUND:

On January 24, 2012, the City and JMA Village, LLC entered into an Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions regarding the real property identified as APN Nos. 541-181-032 through -035 (“Property”). The Agreement was amended twice, most recently on December 9, 2015. Among other things, in this December 9, 2015 amendment, the City agreed to forbear any enforcement actions until August 1, 2016.
In December 2015, JMA Village, LLC transferred the Property to Banning Office Ventures, LLC., a subsidiary of Vanir Group of Companies, Inc. ("Developer"). As part of the transfer, the Developer assumed all of the obligations and responsibilities contained in the original Agreement.

Despite not commencing construction, the Developer fulfilled its obligation to pay the note held by the City on the Property, in the amount of one million twenty thousand dollars ($1,020,000) on August 1, 2016.

In March 2017, after almost a year without commencement of construction, the Council provided direction to initiate legal action against the Developer. The complaint filed was to seek relief for failure to commence construction (right of reverter). If the legal action is successful, the City would take back possession of the Property.

Shortly after the Complaint was filed, the Developer contacted staff to discuss the progress of tenant leasing for the site. During that dialogue, a request was made to a negotiated settlement in lieu of the City pursuing the legal action. Over the next few months, the City and Developer negotiated terms that are summed in the agreement attached (Attachment 2).

**ISSUES/ANALYSIS:**

The City initiated a formal legal action to retake the Property (described above) for failure to commence construction. The Developer initiated negotiations with the City to settle the lawsuit. Staff received direction by the Council to negotiate a settlement, provided resolution to the matter could be accelerated and there would be little to no cost to the City.

In a civil legal action such as a seeking relief for breach of contract, the time from filing a complaint to resolution could take one to two years, if not settled between the parties. Pending litigation can have a detrimental effect on real property such as 'cloud' on title which makes the property especially undesirable to prospective buyers.

Should the City fully pursue the legal action, the Property would likely remain vacant and would not be listed for sale until the court rules on the action. This would likely result in a further delay of at least an additional one to two years the City would be without addressing this prime downtown development opportunity that will lead to the creation of jobs and additional tax revenue. Provided the court, ruled in favor of the City, the property would be reconveyed to the City. The City would repay the original note ($1,020,000) back to the Developer.
The Agreement for consideration would settle the complaint initiated by the City and include the following terms:

- Developer to reconvey real property to City within 30 days of fully executed settlement agreement;

- Initial term of 18 months, with two extensions, the first for 12 months, and the second for an additional 6 months, totaling 36 months, based upon outlined performance benchmarks (identified below):
  
  - City to commission real estate appraisal within 90 days of execution of agreement;
  
  - City to determine sales approach within 120 days of execution of agreement;
  
  - Develop RFP or solicit regional real estate brokerage within 150 days of execution of agreement;
  
  - Publish RFP or secure contract for real estate listing services within 180 days of execution of agreement;
  
  - City to provide monthly updates of inquiry and offer activity to Developer;

- Should property not sell within the entirety of the term of the agreement (36 months), City to payback note less expenses as outlined in conceptual agreement.

- Upon sale of property, the City legal costs and cost to sell the Site are deducted first (capped at $70,000). The remaining sales proceeds would be paid to Developer; and

- During this initial period and in exchange for cooperating with the City, the legal action would be dismissed.

Staff recommends the Council approve this agreement to expeditiously initiate sale proceedings, resolve the litigation claim, and encourage new development opportunity in the City's downtown core which will result in job creation and a long term revenue source to the City.
**FISCAL IMPACT:**

There is no direct fiscal impact associated with this action. The City would have some upfront costs, not expected to exceed $30,000 to sell the property and those costs will be reimbursed out of the sale proceeds before funds are applied to repayment of the Developer note.

**ALTERNATIVES:**

1. Approve Agreement for the Reverter of Real Property Pursuant to Purchase and Sale Agreement with Banning Office Venture, LLC. and Vanir Group of Companies, Inc.
2. Reject Reverter of Real Property Agreement and provide staff with alternative direction.

**ATTACHMENTS:**

1. Resolution 2017-59
2. Agreement for the Reverter of Real Property Pursuant to Purchase and Sale Agreement

Approved by:

[Signature]

Michael Rock
City Manager
ATTACHMENT 1
RESOLUTION 2017-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AGREEMENT FOR THE REVERTER OF REAL PROPERTY PURSUANT TO PURCHASE AND SALE AGREEMENT WITH BANNING OFFICE VENTURE, LLC. AND VANIR GROUP OF COMPANIES, INC.

WHEREAS, on January 24, 2012, the City and JMA Village, LLC entered into an Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions ("Agreement") regarding the real property identified as APN Nos. 541-181-032 through -035 ("Property"). The Agreement was amended twice, most recently on December 9, 2015. Among other things, in this December 9, 2015 amendment, the City agreed to forbear any enforcement actions on the Note and Deed of Trust until August 1, 2016; and

WHEREAS, in December 2015, JMA Village, LLC transferred the Property to Banning Office Ventures, LLC., ("Vanir"). As part of the transfer, in a document entitled the Assignment and Assumption Agreement and Consent dated November 30, 2015, Banning Office Venture, LLC. assumed all of the obligations and responsibilities contained in the original Agreement; and

WHEREAS, on August 1, 2016, Vanir remitted note due to the City in the amount of one million twenty thousand dollars ($1,020,000), however, failed to commence construction; and

WHEREAS, in March 2017, the City initiated a complaint against Vanir for failing to commence construction under the right of reverter clause contained in the original Agreement; and

WHEREAS, the City and Vanir negotiated a settlement to the complaint filed by the City memorialized in the Agreement for the Reverter of Real Property Pursuant to Purchase and Sale Agreement by and between the City of Banning and Banning Office Venture, LLC. and Vanir Group of Companies, Inc.; and

WHEREAS, the settlement agreement will provide an expedited resolution to the litigation, allow the City to sell the Property, and create both job creation opportunities and substantial economic benefits for the community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

1. Resolution No. 2017-59 is approved authorizing an Agreement for the Reverter of Real Property Pursuant to Purchase and Sale Agreement with Banning Office Venture, LLC. and Vanir Group of Companies, Inc.; and
2. The City Council authorizes the Mayor for the City of Banning to execute Agreement in the form that is approved by the City Attorney.

PASSED, APPROVED AND ADOPTED this 13th day of June, 2017.

George Moyer, Mayor
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

John C. Cotti, Interim City Attorney
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk
City of Banning, California

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2017-59 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 13th day of June, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:
ATTACHMENT 2
AGREEMENT FOR THE REVERTER OF REAL PROPERTY PURSUANT TO PURCHASE AND SALE AGREEMENT

This Agreement is made and entered into on June __, 2017 by and between the CITY OF BANNING, a California Municipal Corporation ("the "City"), and BANNING OFFICE VENTURE, LLC ("Banning Office"), a subsidiary of VANIR GROUP OF COMPANIES, INC., a California corporation ("Vanir") The City, Banning Office, and Vanir are collectively referred to as the "Parties." The effective date of this Agreement is the last date on which this Agreement is signed by any of the Parties to the Agreement.

RECATALS

A. City and JMA Village, LLC, a California limited liability company ("JMA") entered into that certain Purchase and Sale Agreement of Real Property and Joint Escrow Instructions dated January 24, 2102 ("PSA") for the acquisition of certain unimproved real property identified on attached Exhibit A ("Real Property").

B. Pursuant to the original PSA, City sold the Real Property to JMA for consideration consisting of (i) a purchase price of One Million Twenty Thousand Dollars ($1,020,000) ("Purchase Price"), and (ii) certain covenants and obligations with respect to the development of the Real Property.

C. The City transferred the Real Property to JMA pursuant to (i) that certain Grant Deed executed as of April 25, 2012 and recorded on May 3, 2012 as Instrument No. 2012-0201442 in the Official Records of Riverside County ("Official Records"), and (ii) that certain Grant Deed dated and recorded on May 3, 2012 as Instrument No. 2012-0201443 in the Official Records ("Deeds"). As set forth in the Deeds, the Real Property was subject to certain continuing obligations under the PSA ("Deed Covenants").

D. The Purchase Price was paid by that certain Promissory Note dated May 3, 2012 in the amount of One Million Twenty Thousand Dollars ($1,020,000) executed by JMA in favor of City which has become due ("Note"). The Note was secured by that certain Deed of Trust dated May 3, 2012 which was recorded against the Real Property on May 3, 2012 as Instrument No. 2012-0201444 in the Official Records ("City Deed of Trust").

E. JMA and City subsequently amended the Original PSA pursuant to that certain First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions dated June 10, 2014 ("First Amendment").

F. In December of 2015, JMA Village, LLC transferred the Real Property to Banning Office which Banning Office assumed pursuant to that certain Assignment and Assumption Agreement and Consent dated November 30, 2015. Under the Assignment and Assumption Agreement, Banning Office Venture, LLC assumed all existing
obligations affecting the Real Property including, but not limited to, the Note and City Deed of Trust and § 12 of the PSA as amended.

G. On December 9, 2015 the Parties amended the PSA for a second time to forebear any enforcements action on the Note or City Deed of Trust as well as extend the Critical Construction Deadlines found in section 11 of the PSA.

H. On August 1, 2016, Banning Office retired the Note. However, vertical construction never commenced on the Property pursuant to section 11 as amended and on March 24, 2017, the City filed an action for declaratory relief seeking a judicial declaration that Banning Office and Vanir were in breach of the PSA and that pursuant to section 12, the City has the right to reenter and take possession of the Real Property and to terminate and revest in the City the fee estate conveyed to Banning Office (Case No. RIC1705273).

I. Rather than expend the time and resources required to litigate the right of reverter under PSA, the Parties desire to and agree to facilitate the complete transfer of the ownership in the Real Property back to the City. The City shall use all reasonable efforts to sell the Real Property in a timely manner and after the City collects all of its costs and expenses incurred in the process of the recapture, management and resale of the Real Property (including salaries to personnel, legal costs and attorneys’ fees and all other expenses) as well as all costs related to the City’s ownership of the property (taxes, assessments, water and sewer charges, etc.), the City shall transfer all remaining proceeds from the sale to Banning Office.

J. Upon transfer of the Real Property from Banning Office and Vanir to the City as provided herein, the City shall file a dismissal for Case No. RIC1705273.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, City and Owner hereby agree as follows:

1. Entire Agreement. This is the entire agreement between the Parties related to the transfer of the Property back to the City. This Agreement may only be amended in writing.

2. Banning Office and Vanir’s Responsibilities. Banning Office and Vanir agree to take all necessary and reasonable steps to accomplish the following:

A. Transfer or otherwise reconvey all of the rights, title and interest in the Real Property described in Exhibit A to the City pursuant to a grant deed. Banning Office and Vanir shall execute the transfer within thirty (30) calendar days of the execution of this Agreement;

B. Ensure that there are no oral or written leases or any other liens or encumbrances on all or any portion of the Real Property;
C. Remove any and all personal property from the Real Property; and

D. Any other reasonable acts necessary for the transfer of the Real Property to the City.

3. **City’s Responsibilities.** City agrees to take all necessary and reasonable steps to accomplish the following:

A. Use commercially reasonable efforts to sell the Real Property in a commercially reasonable manner within eighteen (18) months from the date the Real Property is transferred to the City from Banning Office and Vanir. The City, at its sole discretion, shall determine the best course of action to effectuate sale of the Real Property, including but not limited to the sale pursuant to a Request for Proposal or through the engagement of a qualified broker.

B. Within thirty (30) days of the transfer of the Real Property from Banning Office and Vanir to the City, file a request for dismissal against all defendants in Case No. RIC171705273.

C. Within ninety (90) calendar days of the execution of this Agreement, City shall cause to be conducted an appraisal of the Real Property. At its option and expense, Vanir may conduct a second appraisal of the Real Property.

D. Within one hundred and fifty (150) days of the execution of this Agreement, the City shall either develop a Request for Proposal soliciting proposals to assist the City in selling the Property or solicit a regional real estate brokerage firm to assist in the selling of the Property. City shall keep Vanir updated on either the Request for Proposal Process or the solicitation of the real estate brokerage firm.

E. Give notice to Banning Office and Vanir of any potential sale, the proposed sale price, and allow for reasonable comment from Banning Office and Vanir. In no event shall the property be sold (i.e. sales price, not net proceeds) for less than $1,020,000 without advanced written consent by Vanir, provided consent is not unreasonably withheld.

F. After collecting all of its costs and expenses incurred in the process to recapture title, management and resale of the Real Property (including salaries to personnel, legal costs and attorneys’ fees and all other expenses) as well as all costs related to the City’s ownership of the property (taxes, assessments, water and sewer charges, etc.), the City shall transfer all remaining proceeds (net of sale including commissions, escrow and title services) from the sale of the Real Property to Banning Office and Vanir. City shall provide Banning Office and Vanir an accounting of all costs subtracted from the sale price for the City’s costs and expenses. The City’s costs and expenses shall be capped at seventy thousand dollars ($70,000).
G. If the Real Property is not sold within eighteen (18) months, City shall pay Vanir the sum of one million twenty thousand dollars ($1,020,000) minus any costs or expenses incurred by the City as explained in ¶ 3.F, unless the eighteen month term is extended as provided in Paragraph 5, below. If the term is extended as provided in Paragraph 5 below, to a total thirty six month term and the Real Property is not sold within the extended term, City shall pay Vanir the sum of one million twenty thousand dollars ($1,020,000). Upon payment pursuant to this section, Vanir shall have no further interest whatsoever in the Real Property or in any proceeds from a subsequent sale of the Real Property.

H. Any other reasonable acts necessary for the sale of the Real Property.

4. Parties’ Responsibilities. Parties agree to take all necessary and reasonable steps to accomplish the following:

A. Establish a sales price range for marketing of the Real Property

B. Engage in good faith with any potential buyer of the Real Property brought by the other Party. City shall consider any potential buyer brought by Banning Office and Vanir and not unreasonably withhold consent to such a sale.

5. Term. The eighteen (18) month term of this Agreement may be extended by the City in writing for an additional term of twelve (12) months (1st Extension) and a subsequent six (6) month extensions (2nd Extension) bringing the total term to thirty six (36) months subject to the following:

The City shall provide Vanir documentation showing that:

(i) City conducted an appraisal of the Real Property within ninety (90) calendar days of the execution of this Agreement;

(ii) City developed a sales approach for the Real Property within one hundred and twenty (120) days of the execution of this Agreement;

(iii) City either developed a Request for Proposal soliciting proposals to assist the City in selling the Real Property or solicited a regional real estate brokerage firm to assist in the selling of the Real Property within one hundred and fifty (150) days of the execution of this Agreement;

(iv) City either published the Request for Proposal soliciting proposals to assist the City in selling the Real Property or contracted with a regional real estate brokerage firm to assist in the selling of the Real Property within one hundred and eighty (180) days of the execution of this Agreement; and
(v) City or regional real estate brokerage or both will provide monthly activity updates to Vanir of offers received and disposition.

In the event the City extends the Agreement, the City shall provide Vanir with monthly updates of any progress related to the sale of the Real Property and notify Vanir or any offers received for the Real Property or any responses to the Request for Proposal (if applicable).

6. **Counterparts.** This Agreement may be executed by the Parties in one or more counterparts. All counterparts of any such documents together shall constitute one and the same instrument. This Agreement is of no force or effect until all of the Parties have duly executed the Agreement. This Agreement may be executed by facsimile and a facsimile signature shall have the same force and effect as an original signature.

7. **Use Best Efforts.** Each party shall use its best efforts and work wholeheartedly and in good faith for the expeditious completion of the objectives of this Agreement and the satisfactory performance of its terms.

8. **Authority to Enter Agreement.** The individuals signing this Agreement on behalf of each Party represent and warrant that they are authorized to do so on behalf of their respective Parties.

9. **Review by Counsel.** The Parties acknowledge that each Party and its counsel have reviewed this Agreement and that no rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall be employed in the interpretation of this Agreement.

10. Any Party to this Agreement may bring an action to enforce the terms of this Agreement in the Riverside Superior Court.

[Signatures Follow on the Next Page]
IN WITNESS WHEREOF, the parties and their respective attorneys of record have approved and executed this Agreement on the dates specified below:

Date: June __, 2017

CITY OF BANNING

____________________________
George Moyer,
Mayor

Attest:

Marie Calderon, City Clerk

Approved as to Form:

____________________________
John C. Cotti,
Interim City Attorney

Date: June __, 2017

VANIR:

BANNING OFFICE VENTURE, LLC, a California limited liability company

By: _________________________
Dorene C. Dominguez
President and CEO

APPROVED AS TO FORM

VANIR GROUP OF COMPANIES, INC., a California Corporation

By: _________________________
Dorene C. Dominguez
President
EXHIBIT A
LEGAL DESCRIPTION OF REAL PROPERTY

Real property in the City of Banning, County of Riverside, State of California, described as follows:

PARCELS 1, 2, 3 and 4 OF PARCEL MAP NO. 36285, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 238, PAGE 24 AND 25 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Riverside County APNs: 541-181-032; 541-181-033; 541-181-034; and 541-181-035
TO: CITY COUNCIL
FROM: Michael Rock, City Manager
PREPARED BY: Patty Nevins, Interim Community Development Director
Sandra Calderon, Development Project Coordinator
MEETING DATE: June 13, 2017
SUBJECT: Discuss and Consider Approving Amendment #7 to Agreement for Contractual Services between the City of Banning and Romo Planning Group.

RECOMMENDATION:

That City Council consider adopting Resolution 2017-54:

1. Approving Amendment #7 to Agreement for Contractual Services for Temporary Planning Services through June 30, 2018; and

2. Authorize the City Manager to execute the seventh Amendment with Romo Planning Group on the form that is approved by the Interim City Attorney; and

3. Authorize the Administrative Services Director to make the necessary budget adjustments and appropriations for Fiscal Year 2018 (FY18).

JUSTIFICATION:

The City of Banning is currently under contract with Romo Planning Group, for planning services. Presently, the City is experiencing a critical need for planning staff. In order to continue with the same level of planning services for the public, it is necessary to amend the agreement.
BACKGROUND:

Due to a recent vacancy in staffing within the Community Development Department and increased work load, Romo Planning Group is currently under contract with the City providing planning services through June 30, 2017.

An informal request for a proposal was sent to Romo Planning Group to continue Temporary Planning Services through June 30, 2018. Staff recommends the award to Romo Planning Group for Temporary Planning Services four (4) days per week at a rate of $80/hr.

FISCAL IMPACT:

This amendment to the Consultant Services Agreement will be funded through salary savings. The total compensation for the services shall not exceed $150,000 for FY18.

OPTIONS:

1. Approve Amendment #7 to Agreement for Contractual Services with Romo Planning Group.

2. Reject Amendment #7 to Agreement for Contractual Services with Romo Planning Group and provide staff with alternative direction.

ATTACHMENTS:

1. Resolution 2017-54
2. Planning Services Proposal
3. Resolutions and existing contract amendments #1-6.

Approved by:

[Signature]
Michael Rock
City Manager
ATTACHMENT 1
Resolution 2017-54
RESOLUTION 2017-54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE SEVENTH AMENDMENT TO THE CONTRACT SERVICES AGREEMENT BETWEEN THE CITY OF BANNING AND ROMO PLANNING GROUP, INC.

WHEREAS, the City Manager is responsible to perform and carry out the management duties and functions of the City; and

WHEREAS, due to a vacancy within the Department and increased work load there is a critical need for a Temporary Planner at this time; and

WHEREAS, the City currently contracts with Romo Planning Group for professional project management services for the Rancho San Gorgonio Specific Plan processing and temporary planner services; and

WHEREAS, Article 1.10 of the agreement makes provision for additional services should the City require additional professional services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Council approves Amendment #7 to the Contract Services Agreement with Romo Planning Group, Inc. for additional funding in the amount not to exceed $150,000.

SECTION 2. The Administrative Services Director is authorized to make the necessary budget adjustments and appropriations for FY18.

SECTION 3. The City Manager is authorized to execute the contract amendment with Romo Planning Group, Inc. in a form approved by the Interim City Attorney.

PASSED, APPROVED AND ADOPTED this 13th day of June, 2017.

George Moyer, Mayor
City of Banning
APPROVED AS TO FORM
AND LEGAL CONTENT:

John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2017-54 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 13th day of June, 2017.

AYES:
NOES:
ABSENT:
ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California
ATTACHMENT 2
Planning Services Proposal
May 31, 2017

Patty Nevins
Interim Community Development Director
City of Banning
99 East Ramsey Street
Banning, CA 92220

Re: Contract Planner Extension Proposal

Dear Patty,

Thank you for the opportunity to continue providing the City of Banning with contract planning services. We are pleased to hear that our current staff member is doing an excellent job. Mr. De Manincor is a senior-level planner with over 14 years of experience in city planning. Although our typical journey-level planner rate is $95 per hour, we are happy to extend our current staff services for as long as needed at a rate of $80/hour. We want to be sensitive to the City's budget while providing you with experienced personnel.

If you have any questions or need additional information, please feel free to contact me anytime of the day at 909.255.4017 or via email at gromo@romoplanninggroup.com.

Respectfully,

Gus Romo
Principal
ATTACHMENT 3
Resolutions and existing contract amendments #1-6.
RESOLUTION NO. 2013-88

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO THE ROMO PLANNING GROUP, INC. FOR RANCHO SAN GORGONIO PROJECT MANAGER SERVICES

WHEREAS, the City of Banning received a development application from Rancho San Gorgonio, LLC. for the development of a master plan community called, "Rancho San Gorgonio (RSG)"; and

WHEREAS, the RSG development is proposed on an 849 acre property which is located on the south side of Westward Avenue between Sunset Avenue and San Gorgonio Avenue/Highway 243; and

WHEREAS, due to lack of staffing to manage and oversee a large development project including the preparation of the environmental impact report and to process the entitlement of the above-mentioned project, the City Management staff determined that it is best to hire a contract planner to be a Project Manager to manage the project; and

WHEREAS, on June 6, 2013, staff released the Request for Proposal (RFP) for a Project Manager with responses due on July 18, 2013; and

WHEREAS, the City received four responses from the following consultants: Duane Morita Planning and Environmental; P3 Services; PZL, Inc. and The Romo Planning Group, Inc.; and

WHEREAS, interviews with the consultants were held on August 27, 2013 and based on selection criteria including experience, qualifications, references, approach and understanding, schedule and costs, The Romo Planning Group, Inc. was determined to be the most qualified responsive proposer; and

WHEREAS, the scope of work outlines the Project Manager’s responsibility for managing the entitlements of the project and carrying it through the public hearing process and overseeing the preparation of the Specific Plan and consultants who will prepare the environmental impact report (EIR) and making sure that the EIR complies with the various timelines and review process in accordance with CEQA Guidelines including filing of the various notices with the State and the County; and

WHEREAS, professional services provided by The Romo Planning Group, Inc. in regard to the abovementioned services will be funded by Rancho San Gorgonio, LLC in the amount of $60,480.00.
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-88 was duly introduced and adopted at a regular meeting of the City Council of the City of Banning, held on the 14th day of January, 2014, by the following vote, to wit:

AYES:  Councilmembers Miller, Peterson, Welch, Westholder, Mayor Franklin

NOES:  None

ABSENT: None

ABSTAIN: None

[Signature]

Marie A. Calderon, City Clerk
City of Banning, California
RESOLUTION NO. 2014-73

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BANNING AND ROMO PLANNING GROUP, INC. FOR ADDITIONAL PLANNING SERVICES

WHEREAS, Planning Division of the Community Development Department processes entitlement applications and permits, provides current and advanced planning services, and provides other related services to the public; and

WHEREAS, due to staff vacancies within the Department there is a critical need for planning services at this time; and

WHEREAS, the City currently contracts with Romo Planning Group for professional project management services for the Rancho San Gorgonio Specific Plan processing; and

WHEREAS, Article 1.10 of the agreement makes provision for additional services should the City require additional professional services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The First Amendment to the Contract Services Agreement with Romo Planning Group, Inc. for additional planning services is hereby approved (Attachment A).

SECTION 2. The Administrative Services Director is authorized to make the necessary budget adjustments and appropriations, if needed, to implement the contract for FY 2015.

SECTION 3. The City Manager is authorized to execute the contract amendment with Romo Planning Group, Inc. in a form approved by the City Attorney.

PASSED, APPROVED AND ADOPTED this 12th day of November, 2014.

[Signature]
Deborah Franklin, Mayor
City of Banning
ATTEST:

Marie A. Calderon, City Clerk
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

Lena N. Laymon, Assistant City Attorney
Alesheride and Wynder, LLP.

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2014-73 was duly adopted by the City Council of the City of Banning at a special meeting thereof held on the 12th day of November, 2014, by the following vote, to wit:

AYES: Councilmembers Miller, Peterson, Welch, Westholder, Mayor Franklin
NOES: None
ABSENT: None
ABSTAIN: None

Marie A. Calderon, City Clerk
City of Banning, California
RESOLUTION NO. 2015-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BANNING AND ROMO PLANNING GROUP, INC. FOR ADDITIONAL SENIOR MANAGEMENT ANALYST SERVICES

WHEREAS, the City Manager is responsible to perform and carry out the management duties and functions of the City; and

WHEREAS, due to staff vacancies within the Department there is a critical need for Senior Management Analyst services at this time; and

WHEREAS, the City currently contracts with Romo Planning Group for professional project management services for the Rancho San Gorgonio Specific Plan processing and associate planner services; and

WHEREAS, Article 1.10 of the agreement makes provision for additional services should the City require additional professional services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Second Amendment to the Contract Services Agreement with Romo Planning Group, Inc. for additional Senior Management Analyst services is hereby approved (Attachment A).

SECTION 2. The Administrative Services Director is authorized to make the necessary budget adjustments and appropriations, if needed, to implement the contract for FY 2015.

SECTION 3. The City Manager is authorized to execute the contract amendment with Romo Planning Group, Inc. in a form approved by the City Attorney.

PASSED, APPROVED AND ADOPTED this 24th day of March, 2015.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-16 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 24th day of March, 2015 by the following vote, to wit:

AYES: Councilmembers Miller, Moycr, Peterson, Welch
NOES: Mayor Franklin
ABSENT: None
ABSTAIN: None

Marie A. Calderon, City Clerk
City of Banning, California
RESOLUTION NO. 2015-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE THIRD AMENDMENT TO THE CONTRACT SERVICES AGREEMENT BETWEEN CITY OF BANNING AND ROMO PLANNING GROUP, INC.

WHEREAS, on November 12, 2014, the City Council adopted Resolution No. 2014-73 approving the First Amendment to the existing Professional Services Agreement with the Romo Planning Group for Additional Planning Services; and

WHEREAS, due to staff vacancies within the Department there is a critical need for planning services at this time; and

WHEREAS, since November 19, 2014, Oliver Mujica has been serving as the Contract Planner under the existing Contract Services Agreement on behalf of the Romo Planning Group, Inc.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Council approves Amendment #3 to the Professional Services Agreement with Romo Planning Group, Inc. for additional funding in the amount not to exceed $150,400.00 as attached hereto as Exhibit “A”.

SECTION 2. The Interim City Manager is authorized to execute the Third Amendment to the Professional Services Agreement with Romo Planning Group, Inc. in a form approved by the City Attorney.

PASSED, APPROVED AND ADOPTED this 23rd day of June, 2015.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

Long N. Laymon, Assistant City Attorney
Aleshire and Wynder, LLP.
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-49 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June, 2015, by the following vote, to wit:

AYES: Councilmembers Miller, Peterson, Welch,
NOES: Councilmember Moyer and Mayor Franklin
ABSTAIN: None
ABSENT: None

[Signature]
Marie A. Calderon, City Clerk
City of Banning, California
AMENDMENT #4 TO AGREEMENT FOR CONTRACTUAL SERVICES

THIS AMENDMENT #4 TO THE AGREEMENT FOR CONTRACTUAL SERVICES ("Amendment") by and between the CITY OF BANNING ("City") and Romo Planning Group, Inc., a California corporation ("Consultant") is effective as of the 24th day of June, 2016.

RECITALS

A. City and Consultant entered into that certain Agreement for Contractual Services dated October 9, 2013 ("Agreement") on whereby Consultant agreed to provided Consultant Services Related to Rancho San Gorgonio Project Manager, plus Amendment #1 to include additional compensation for Contractual Services dated November 13, 2014 on whereby Consultant agreed to provide Temporary Planning Services, plus Amendment #2 to include additional compensation for Contractual Services dated March 24, 2015 on whereby Consultant agreed to provide services for a Senior Management Analyst, plus Amendment #3 to include additional compensation for Contractual Services dated June 23, 2015 on whereby Consultant agreed to provide services for Temporary Planning Services.

B. City and Consultant now desire to amend the Agreement, plus Amendment #1, Amendment #2, and Amendment #3 to include additional compensation for additional services in the amount not to exceed Twelve Thousand Dollars ($12,000) for additional Temporary Planning Services for a total contract amount not to exceed Three Hundred Twenty-Six Thousand Two Hundred Dollars ($326,200).

TERMS

1. Contract Changes. The Agreement is amended as provided herein.

   (a) Scope of Services (Exhibit A-1): Exhibit "A" to the Agreement is hereby amended to include the additional services as provided in the attached Exhibit "A-1".

   (b) Compensation (Exhibit C-1): Exhibit "C" to the Agreement is hereby amended to include the additional compensation as provided in the attached Exhibit "C-1".

   (c) Schedule (Exhibit D-1): Exhibit "D" to the Agreement is hereby amended to include the additional services as provided in the attached Exhibit "D-1".

   These exhibits do not amend the existing exhibits but pertain to the additional services performed hereunder.

2. Continuing Effect of Agreement. Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after
the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Contractual Services Agreement.

3. Affirmation of Agreement; Warranty Re Absence of Defaults. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid and binding obligation.

Consultant represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Consultant that, as of the date of this Amendment, Consultant is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. Adequate Consideration. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BANNING, a municipal corporation

ATTEST:

Michael Rock, City Manager

Marie Calderon, City Clerk

APPROVED AS TO FORM:

John C. Cotti, City Attorney

CONSULTANT:

Romo Planning Group, Inc.

By: ____________________________
Name: Gustavo J. Romo
Title: President

By: ____________________________
Name: Elizabeth Romo
Title: Secretary

Address: 2432 Haven Avenue, Ste. 232
Rancho Cucamonga, CA 91730

Two signatures are required if a corporation

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BANNING, a municipal corporation

Michael Rock, City Manager

ATTEST:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

JENKINS & HOGIN, LLP

John C. Cotti, Interim City Attorney

CONSULTANT:

Romo Planning Group, Inc.

By: ____________
Name: Gustavo J. Romo
Title: President

By: ____________
Name: Elizabeth Romo
Title: Secretary

Address: 8338 Garden St.
Alta Loma, CA 91701

Two signatures are required if a corporation.

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.
ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California   }
County of Los Angeles}

On June 29, 2016 before me, Claudia Carlos, Notary Public, personally appeared Gustavo J. Romo and Elizabeth Romo, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature

OPTIONAL INFORMATION

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document
Title or Type of Document: Amendment No. 4 to Contract Services Agreement
Document Date: June 29, 2016
Signer(s) Other Than Named Above:
EXHIBIT "A-1"

SCOPE OF SERVICES

I. Consultant will perform the following Services on an on-call basis:

A. RPG staff will serve in the capacity of an interim Associate Planner to assist the Community Development Director with all daily tasks necessary to assist staff with the general public, provide counter coverage, process minor and major land use entitlement projects, and perform all duties pertaining to the Associate Planner position as called out in the City of Banning Associate Planner job description (Job Code: 3020).

II. Consultant must perform all on-call Services in compliance with the following requirements:

A. Each task shall be indicated by a written request produced by the Contract Officer with a description of the work to be performed, and the time desired for completion. All tasks shall be carried out in conformity with all provisions of this Agreement.

B. Consultant must prepare a written description of the requested tasks including all components and subtasks; the costs to perform the task ("Task Project"); explain how the cost was determined; and a schedule for completion of the task ("Task Completion Date"); which shall all collectively be referred to as the "Task Proposal".

C. Contract Officer shall in writing approve, modify or reject the Task Proposal, and may issue a Notice to Proceed.

D. The task shall be performed at a cost not to exceeding the Task Budget.

E. Consultant shall complete the task and deliver all deliverables to Contract Officer by the Task Completion Date.

A. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City appraised of the status of performance by delivering the following status reports: N/A

III. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

IV. Consultant will utilize the following personnel to accomplish the Services:

Yvonne Franco – to serve as the interim Associate Planner.
EXHIBIT "C-1"

SCHEDULE OF COMPENSATION

I. Consultant shall establish a Task Budget for each Task identifying the subtasks, based on the time and rates of the personnel performing the subtasks, and itemizing all materials and equipment utilized and the costs thereof. If payment is to be made other than at completion of the services, then the phases of the performance and percentage of payment due shall also be shown in the Task Proposal.

II. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include

A. Line items for personnel describing the work performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

III. The total compensation for the Services shall not exceed $12,000, as provided in Recital B of this Agreement.

IV. The City will compensate Consultant for work performed at a rate of $80/hr.
EXHIBIT "D-1"

SCHEDULE OF PERFORMANCE

I. Consultant shall perform Services on an on-call basis as set forth in Exhibit A.

II. Consultant shall deliver the following tangible work products to the City by the following dates.

The schedule of performance for additional work will be determined based on the need for specific items as necessary and requested by the Director of Community Development or his designee. Additional services shall be completed by June 30, 2017.

III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.
AMENDMENT NO. 5 TO AGREEMENT FOR CONTRACTUAL SERVICES

THIS AMENDMENT NO. 5 TO THE AGREEMENT FOR CONTRACTUAL SERVICES ("Amendment") by and between the CITY OF BANNING ("CITY") and ROMO PLANNING GROUP, INC., a California Corporation ("Consultant") is effective as of the 25th day of October, 2016.

RE bâtals

A. CITY and Consultant entered into that certain Agreement for Contractual Services dated October 9, 2013 ("Agreement") whereby Consultant agreed to provide Services Related to Rancho San Gorgonio Project Manager, plus Amendment No. 1 to include additional compensation for Contractual Services dated November 13, 2014 on whereby Consultant agreed to provide Temporary Planning Services, plus Amendment No. 2 to include additional compensation for Contractual Services dated March 24, 2015 on whereby Consultant agreed to provide services for a Senior management Analyst, plus Amendment No. 3 to include additional compensation for Contractual Services dated June 23, 2015 on whereby consultant agreed to provide services for Temporary Planning Services, plus Amendment No. 4 to include additional compensation for Contractual Services dated June 24, 2016 on whereby consultant agreed to provide services for Temporary Planning Services.

B. CITY and Consultant now desire to amend the Agreement, plus Amendment No. 1, Amendment No. 2, Amendment No. 3 and Amendment No. 4 to adjust the contract redistribution of fees and the schedule of compensation related to the Rancho San Gorgonio Specific Plan Project Manager Services in the amount of Twelve Thousand Dollars ($12,000) for a total contract amount not to exceed Three Hundred Twenty-Six Thousand Two Hundred Dollars ($326,200).

TE BIRMS

1. Contract Changes. The Agreement is amended as provided herein:

(a) Schedule of Compensation (Exhibit C-1): Exhibit "C", Section I. to the Agreement is hereby adjusted to redistribute fees.

2. Continuing Effect of Agreement. Except as amended by this Agreement, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

3. Affirmation of Agreement; Warranty Re Absence of Defaults. CITY and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party
represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to CITY that, as of the date of this Amendment, CITY is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

CITY represents and warrants to Contractor that, as of the date of this Amendment, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

SIGNATURES ON FOLLOWING PAGE
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BANNING

Michael Rock, City Manager

ATTEST:

Marie A. Calderon, City Clerk

APPROVED AS TO FORM:
JENKINS & HOGIN, LLC.

John C. Cotti, Interim City Attorney

CONTRACTOR:

By: ____________________________
Name: Gustavo J. Romo
Title: President

By: ____________________________
Name: Elizabeth Romo
Title: Secretary
Address: 9481 Haven Ave., Ste. 232
Rancho Cucamonga, CA 91730

NOTE: CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

On ____________, 2016 before me, ____________________________________________, personally appeared ____________________________________________, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:

<table>
<thead>
<tr>
<th>CAPACITY CLAIMED BY SIGNER</th>
<th>DESCRIPTION OF ATTACHED DOCUMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>TITLE OR TYPE OF DOCUMENT</td>
</tr>
<tr>
<td></td>
<td>NUMBER OF PAGES</td>
</tr>
<tr>
<td></td>
<td>DATE OF DOCUMENT</td>
</tr>
</tbody>
</table>

SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

See attached
CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT
(CALIFORNIA CIVIL CODE § 1189)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF San Bernardino

On Dec 2, 2016 before me, Carol Brodsky - Papakale, Notary Public
(Date)
(Here Insert Name and Title of the Officer)

personally appeared Gustavo Jaredo Romo, Elizabeth Rosales Romo
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

Description of Attached Document
Title or Type of Document: Assignment to Agreement Document Date: N/A
Number of Pages: 4 Signer(s) Other Than Named Above: N/A
Additional Information: N/A
RESOLUTION 2017-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE SIXTH AMENDMENT TO THE CONTRACT SERVICES AGREEMENT BETWEEN THE CITY OF BANNING AND ROMO PLANNING GROUP, INC.

WHEREAS, the City Manager is responsible to perform and carry out the management duties and functions of the City; and

WHEREAS, due to an upcoming vacancy within the Department and increased work load there is a critical need for a Temporary Planner at this time; and

WHEREAS, the City currently contracts with Romo Planning Group for professional project management services for the Rancho San Gorgonio Specific Plan processing and temporary planner services; and

WHEREAS, Article 1.10 of the agreement makes provision for additional services should the City require additional professional services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Council approves Amendment #6 to the Contract Services Agreement with Romo Planning Group, Inc. for additional funding in an amount not to exceed $48,500.

SECTION 2. The Administrative Services Director is authorized to make the necessary budget adjustments and appropriations for FY 2017.

SECTION 3. The City Manager is authorized to execute the contract amendment with Romo Planning Group, Inc. in a form approved by the Interim City Attorney.

PASSED, APPROVED AND ADOPTED this 14th day of February, 2017.

George Moyer, Mayor
City of Banning
ATTEST:

Marie A. Calderon, City Clerk
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2017-21 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 14th day of February, 2017, by the following vote, to wit:

AYES:     Councilmembers Andrade, Franklin, Peterson, Welch, Mayor Moyer

NOES:     None

ABSENT:   None

ABSTAIN:  None

Marie A. Calderon, City Clerk
City of Banning, California
THIS PAGE LEFT BLANK
INTENTIONALLY
TO: CITY COUNCIL
FROM: Michael Rock, City Manager
PREPARED BY: Rochelle Clayton, Deputy City Manager
MEETING DATE: June 13, 2017
SUBJECT: Consider Adopting Resolution 2017-63, Authorizing a Contract with TMG Consulting in the Amount of $47,500 for the Feasibility Study for the City’s Customer Information System (CIS) and Enterprise Resource Planning (ERP)

RECOMMENDATION:

1. Adopt Resolution 2017-63, authorizing the contract with TMG Consulting in the amount of $47,500 to conduct the Feasibility Study for the City’s CIS & ERP system.

2. Authorize the City Manager to execute the Purchase Contract.

3. Authorize the Administrative Services Director to make necessary budget adjustments, appropriations, and transfers.

JUSTIFICATION:

At the City Council Budget Workshop on May 24, 2016, staff presented to Council the need for a new CIS and ERP system and developed a schedule. The schedule was delayed due to unforeseen staffing changes. Staff is ready to proceed with the project of implementing a new system, which will take approximately two years.

The first step is to hire a consultant that will develop the scope, schedule, budget, and risk assessment. The TMG team will examine our existing systems, goals, objectives, and analyze the resources, risks, costs and benefits for the options available to the City, and provide a recommendation.

The request for proposal (RFP) process was completed by Northern California Power Agency (NCPA) and this is part of a cooperative agreement as permitted by the City’s Municipal Code Section 3.24.130 (D.). The agreement, list of consultants interviewed and interview questions from NCPA are included in the attachments.
BACKGROUND:

A CIS is the Customer Information System that is a vital component or the "meter-to-cash" value for utilities that provide metered information to translate to customers in the form of billing and other on-line software products. An ERP is the Enterprise Resource Planning system that is a large-scale software program designed for the flow of internal processes and allows communication between departments for internal data, functions, and workflow.

The current system is well over 25 years old and has very outdated functionality. Reports are nearly obsolete and much information required by regulatory agencies as well as external auditors, customers, and internally must be manually developed.

An updated system will allow for many on-line and workflow solutions, allowing the City to transition into a nearly paperless process for most functions, such as purchasing and procurement, accounts payable, accounts receivable, payroll, asset management, reporting and budget preparation.

Below is a project schedule:

<table>
<thead>
<tr>
<th>PLAN</th>
<th>3-Month Process</th>
<th>DEVELOP SCOPE, SCHEDULE, BUDGET &amp; RISK ASSESSMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>SELECTION</td>
<td>9-Month Process</td>
<td>DEVELOP DETAILED REQUIREMENTS, RFP, REVIEW PANEL, &amp; SELECT SOFTWARE</td>
</tr>
<tr>
<td>IMPLEMENTATION</td>
<td>12-Month Process</td>
<td>DEVELOP STRATEGY, TEST DATA, &amp; DEPLOY SOFTWARE SOLUTION</td>
</tr>
</tbody>
</table>

FISCAL IMPACT:

$47,500 will be paid 20% by the General Fund ($9,500) and 80% split among the Utilities ($38,000).

ATTACHMENTS:

A. Cooperative Proposal from TMG Consultants
B. NCPA’s RFP Data & Interview Questions
C. NCPA’s Agreement
D. Agreement between Banning and TMG Consultants
E. Resolution 2017-50

Approved by:

Michael Rock
City Manager
ATTACHMENT A
CITY OF BANNING, CA – Proposal
Feasibility Study: ERP / CIS

CONTENTS

CONTENTS ......................................................................................................................... 2

EXECUTIVE SUMMARY ................................................................................................. 3

ABOUT TMG ...................................................................................................................... 4

TMG EXPERIENCE ............................................................................................................. 5

METHODOLOGY ................................................................................................................ 12

APPROACH ......................................................................................................................... 13

  TASK 1.1: Kick-off ........................................................................................................... 13
  TASK 1.2: Cost Benefit Analysis .................................................................................... 13
  TASK 1.3: Resource Analysis ....................................................................................... 14
  TASK 1.4: Risk Analysis ............................................................................................... 14
  TASK 1.5: Feasibility Report ......................................................................................... 14

DELIVERABLES & PRICING ............................................................................................. 16

CONCLUSION ...................................................................................................................... 17
EXECUTIVE SUMMARY

TMG is pleased to provide this proposal for a Feasibility Study to the City of Banning for CIS/ERP Business Consulting Services.

Our objective is to assist the City in its decision making related to the future of their ERP and CIS systems. CIS/ERP projects are arguably some of the most complex, risky and high profile projects you will undertake and preparation for these projects is crucial for the project’s success.

Our final deliverable to the City is a Feasibility Report that will examine your existing systems, goals, objectives and drivers, and analyze the resources, risks, costs and benefits for various options available to the City. Our report will recommend a path forward for the City based on the most viable option.

TMG brings its corporate and consultant experience of CIS and ERP projects, subject matter expertise, industry best practices and supporting methodologies to this project. Our methodology, Sabre-7™ has been designed to help us deliver consistent and quality services to our clients in every study we undertake.

Should the City decide to move forward with a project, TMG has other optional services the City may wish to consider including research, procurement, implementation and post-implementation support services.
ABOUT TMG

TMG Consulting was founded in 1992 in response to an industry-wide need for independent advisory service for critical business process and information technology based decisions. In 2009, TMG was acquired by Five Point Partners and formed the nucleus of Five Point’s Advisory Services practice. Immediately prior to Ernst & Young’s (EY) acquisition of Five Point in May of 2014, TMG separated from Five Point to continue its long tradition of providing independent advisory services to utilities.

Concurrent with returning to the market, TMG merged with Langham Consulting Services to add additional depth and breadth to our practice. Like TMG, Langham Consulting Services has enjoyed a 22-year tradition of providing independent advisory services. The synergies achieved through this merger ensures our clients have access to the most experienced and knowledgeable utility experts.

In October 2015, TMG acquired a research and strategy company, RIM Solutions. RIM operates as a wholly owned subsidiary of TMG Consulting and provides the same exemplary service that TMG offers. With this acquisition, TMG now provides the intelligence to address any opportunity or issue facing utilities, and the solutions providers who serve utilities.

TMG focuses on representing only our clients and their best interests in strategic planning, evaluation, selection, and implementation support of mission critical applications. We have no other business units or practices that directly or indirectly support the product and system integration vendors and their interests, nor do we have a systems integration practice ourselves. We believe that doing so causes a very real conflict of interest that jeopardizes our client’s best interests.

Since its inception, TMG has had the privilege of assisting more than 250 utilities with approximately 400+ projects. We employ some of the most experienced advisory professionals available in the market today. Our professionals are frequent speakers at industry events, many are regular contributors to industry publications, and all pride themselves on providing exceptional customer service. We encourage you to call or email any of our previous clients to validate our knowledge, experience and expertise.

In the last 3 years, TMG has been the primary consultant on various CIS/ERP engagements including Riviera Utilities, Muscatine Water and Power, New Orleans Sewerage and Water Board and Louisville Water Company.

TMG is committed to providing the most experienced consultants in the industry. On average our consultants bring over 20+ industry experience. As you will see, our consultants bring vast experience unmatched by the rest of the industry.
TMG EXPERIENCE

TMG’ core competencies are providing Strategy, Research and Analysis, Solution Procurement, Client Side Delivery Support and Client Side Operations Management, to our clients. This includes application planning, business process analysis, data quality audits and quality assurance. We have complete, proven methodologies for each of these competencies. We have assisted over 65 utilities with assessments and planning; led over 100+ solution procurements; provided client side delivery support for several utilities; and performed quality assurance during product implementations over 40 times.

The following clients are examples of where TMG has provided services that we understand are required of the City of Banning. These projects speak to our knowledge, the comprehensive nature of our methodology, our professionalism and our drive to really partner with our clients. Please feel free to reach out to them or any of our other current or former clients.
## About Riviera Utilities:

Located in Foley, AL in southern Baldwin County, Riviera Utilities is a multiservice utility providing water, sewer, electric, gas, cable and solid waste services to over 65,000 customers in several incorporated and unincorporated areas. This area is experiencing rapid growth and so are the customer demands for Riviera Utilities.

Riviera Utilities began a mission 2 years ago to replace/update their IT infrastructure and business applications. This called for an assessment of the current state and then an overall prioritized Technology and Application (IT Strategic Plan) to move forward.

## Applications and areas addressed:

After a thorough assessment of staff, technology, applications, goals and objectives, Riviera Utilities has start to execute a 5 year plan as recommended by TMG which will update a vast majority of its IT infrastructure, business applications, and business processes. The early stages of this plan includes:

1. Hiring additional qualified IT staff
2. Expansion and Standardization of server platforms
3. Standardization of application databases
4. Standardization of reporting tools
5. Acquisition of new servers & network communications equipment
6. Acquisition of a full application suite covering ERP, CIS, WAM, MWM, CSS, IVR/ACD, and Fleet Maintenance.
7. Redesign of business processes in virtually every area of business
8. Implementation of automated Warehouse Inventory control procedures and equipment
9. Evaluation and selection of mobile field devices
10. Consolidation of two separate GIS platforms into one ESRI platform
11. Update of security camera system.
12. Initial planning for an MDM and AMI deployment

## TMG Services:

TMG services began with some initial business process reviews to guide overall discussion about goals and objectives and this quickly expanded to include a full technology review, recommended technology plan, resource and risk analysis, a detailed business requirements assessment, develop functional and technical specifications, strategic options, and produce RFPs for a new suite of products including CIS, ERP and Work Management. TMG has is now overseeing the implementation of the Cayenta suite of products and also providing client side implementation services which include project management, business process reengineering, test management, and quality assurance. The first two phases of this project will be completed by early 2018.
The Sewerage & Water Board of New Orleans (SWBNO) is a political subdivision created in 1899 by Louisiana State Statutes. The Board is charged with construction, operation, and maintenance of Water, Sewerage, and Drainage Systems for the City of New Orleans. The Board was established as a “special board” operating independently of city government. The Board’s service area includes the Civil Parish of Orleans and covers 364 square miles. Based on the 2010 census, the population serviced by SWBNO was 370,000. SWBNO also provides billing and collections services for the City of New Orleans Sanitation Department. Pre-Katrina SWBNO provided service to about 144,000 accounts, dropping to under 100,000 post-Katrina. SWBNO currently provides service to over 130,000 accounts.

Hurricane Katrina represented the greatest challenge ever faced by the Sewerage & Water Board and the City of New Orleans. With 80% of the city flooded, thousands of New Orleansians lost their lives and their property. The impact of Hurricane Katrina to the board’s water, sewer, drainage, and power generation systems was devastating. Over 300 Sewerage & Water Board employees manned their stations at board facilities throughout the city during Hurricane Katrina and during the catastrophic flooding that followed. These Sewerage & Water Board ‘Katrina Heroes’ literally risked their lives and their personal safety to salvage and repair vital Sewerage & Water Board facilities and equipment that made it possible to dewater the city in only 11 days after the levee breaches were repaired.

Hurricane Katrina delayed any major software replacement projects to the point where the legacy software, hardware, and staff all represented major risks and points of failure. SWBNO’s current utility billing system is known as the Customer Account Management System (CAM) and is a 25-year old legacy mainframe “green screen” system which is used to store utility customer information, process and schedule utility service requests, maintain meter inventory, post payments and bill for water, sewer and sanitation services. SWBNO’s goal was to replace the legacy CAM System with a modern Customer Information System (CIS) application that provides advanced options for calculating customer bills, provide electronic billing, customer self-service capabilities and other advanced functions and features. Cogsdale’s CSM system, a SQL Server solution built on Microsoft GP, was selected as the product of choice.

Subsequently, SWBNO has selected a vendor for their Human Resources / Payroll applications and is currently in implementation. Finance selection will begin in mid-2016.
TMG Services:

TMG was initially engaged by the Board in 2013 to help develop a plan for application replacement. The plan included recommendations of what to replace, in what sequence to perform the replacement, as well as what technologies to consider as viable. TMG was subsequently engaged to facilitate the evaluation and selection of a solution vendor to implement the CIS and HR/PR systems (Phase 1).

The planning and selection effort for CIS began in mid-2013 and lasted nearly 12 months. SWBNO chose Cogsdale and the implementation project began in late 2014 with TMG having acted as lead contract negotiator. TMG is currently providing ongoing client-side project management, monthly quality assurance reviews, and test management.

In addition, TMG has completed BPR services that included the documentation of all as-is and to-be processes that are being used to develop both testing and training materials on the project. TMG has also provided an employee certification plan to facilitate the implementation of a long-term resource plan. SWBNO is on budget and scheduled for go-live mid-2016.

TMG also was engaged in providing planning and contact services for SWBNO’s next project, the replacement of their legacy HR/PR systems (Phase 2). Future engagements will include the project management and quality assurance for implementation of HR/PR as well as similar services on the FMS and WAM replacements (Phases 3 and 4).

TMG Team

The members of the TMG Team include Acquisition/Selection Consultants, a Contract Consultant, Project Managers, Quality Assurance and Quality Control Managers, and a Senior BPR Consultant. The team had an average of 20+ years of experience.

Project Budget & Timeline

Phase 1 project budget was $6M with a projected schedule of 16 months. The project is currently on budget and go-live will be delayed by 2 months due to resourcing issues for both the client and the vendor.

Program’s Success

Phase 1 included the creation of new business processes, implementation of new technologies, and the transitioning of staff to a new application paradigm. According to all measures internal and external, the program has been a success.

Lessons Learned

SWBNO was forced to delay their long-term application strategy due to a natural disaster and are now having to implement systems in the order of the planned technical staff retirements rather than an optimal or logical sequence.

But in spite of these critical deadlines, the SWBNO has taken a realistic but unique approach to the concept of being ready for go-live. Under the umbrella of structured Resource and Certification Plans, the Board has expanded the metrics for any go-live decision (beyond the traditional number of open defects) to include the proof of organizational readiness - staff levels by role must be test-proven. For each role, there must be sufficient staff members capable of performing their duties in an accurate and timely manner.
**Burbank Water & Power**  
164 W Magnolia Blvd.,  
Burbank, CA 91502  

**Joanne Fletcher,**  
Assistant General Manager  
Customer Service and Marketing  
(818)238-3554

---

**About Burbank:**  
Burbank is a small City of 103,000 residents in the Greater Los Angeles area. Established in 1913, BWP provides electric and water services to 55,000 customers, using Oracle products CC&B, CSS, WAM, BI, all integrated with Siemens MDM that provides for both Water and Electric AMI. Customer Services are provided by a centralized department that manages front and back office operations for both BWP and for sewer and solid waste services on behalf of the City of Burbank.

**Applications and areas addressed:**  
BWP originally engaged TMG in 2000 to provide professional services in the acquisition and implementation of a CIS product to replace their 35-year-old legacy system. The SCT Banner product was selected together with BillGen (complex billing engine) and Group 1’s bill formatting product. BWP went live on all products in the Spring of 2004, winning the 2005 Utility ACE Award.

**TMG Services:**  
In 2009, BWP was an early adopter of Smart Grid technology, using The City of Banning funding to implement AMI and MDM technologies. TMG assisted with the procurement and led the contract negotiation with the chosen vendor, Siemens. After the MDM go-live in 2011, BWP began to consider its options regarding continued support of Banner. Now eight years old and without significant updates from the vendor, the CIS was quickly becoming out-of-date for this progressive utility. TMG provided options analysis for the replacement or upgrade of Banner. Through a competitive process, Burbank selected Oracle’s CC&B CIS product with EP2M as the implementer. TMG completed contract negotiations with the selected vendors and went on to provide project management, test management and quality assurance services during the implementation which successfully went live in February 2014 and winning the 2015 CS Award for CIS Implementation.

TMG is currently providing application managed services (technical and functional support) for BWP’s operational systems (CIS and MDM). As part of our engagement, now in its second year of operation, we have provided BWP a technology roadmap which examines its key applications (CIS, CSS and other web portals, MDM, WAM, GIS, BI, telephony systems and AMI systems). Our roadmap also considers other aspects of BWPs operational needs and goals including technical and operational resourcing, business continuity, and quality management.
The Louisville Water Company (LWC) is a municipally owned corporation that provides water to over 300,000 addresses in a 600+ square mile area encompassing the Louisville Kentucky metro area and surrounding counties. The distribution system consists of over 4,000 miles of water mains. LWC also provides billing services for the Metropolitan Sewer District.

LWC has an approved strategy to standardize its information management systems on Oracle software. Oracle standardization provided LWC the opportunity to improve resource utilization and provide common tools for all of its business users at a time when LWC was seeking ways to increase traditional and non-traditional revenues. LWC’s Oracle products included Financial, Time & Labor, Purchasing, Inventory, and PeopleSoft Human Resources & Payroll.

Embracing this strategic direction, LWC’s first IT effort was to replace its legacy CIS system and mobile system with the Oracle Customer Care and Billing (CC&B) and Mobile Workforce Management (MWM) systems.

In March 2015 LWC completed the implementation of the Oracle Customer Care and Billing (CC&B) and Mobile Workforce Management (MWM) systems.

TMG was engaged to facilitate the evaluation and selection of a solution implementer (SI) to implement the CC&B and MWM systems. TMG’s Gary Weseloh was the project manager and primary consultant on all tasks. The planning and selection effort began in June 2012 and lasted nearly 12 months. LWC chose Oracle Consulting Services as the SI, and the implementation project began in July 2013. TMG (Gary Weseloh) provided Quality Assurance during the implementation and (through Five Point) provided the client project manager, the testing lead and testing lead, and also expert functional staff during the post go-live stabilization period. LWC went live on time and on budget in March, 2015.

TMG utilized its Application Planning and Solution Procurement. TMG also provided oversight of the client’s project manager, training lead, testing lead and organizational change management lead provided by Five Point (now EY).

TMG is now engaged in providing planning and selection services for LWC’s next project, the planning and installation of Oracle’s Work and Asset Management (WAM) system. Future efforts will include Meter Data Management, upgrading the e-Business financial system and the PeopleSoft HR system, and an enterprise Business Intelligence system.
The members of the TMG Team included Project Director and Lead Consultant/Project Manager. The team had an average of 30+ years of experience.

$34 million for selection of SI and implementation of the solution, including software, system implementation, LWC staff and facilities, and consulting services. Planning and selection began in June 2012, and the implementation ran from July 2013 to March 2015. The project was completed according to the originally planned go-live date and within 2% of budget. LWC has submitted its application for recognition as the best CIS implementation of the year at the 2016 CS Week Conference.

The systems were implemented on time and on budget according to the original budget and timeframe. LWC is pleased with the quality of the system and its integration to other systems. TMG has subsequently been awarded a 5-year master contract to provide planning and selection services, and client-side implementation services for other systems. TMG is currently facilitating the planning of the implementation of a complete Enterprise Asset Management program with the Oracle Work and Asset Management system.

LWC implemented a new VOIP phone system at the same time as going live with the new CIS. Phone system issues contributed greatly to customer service complaints received after go-live. Additionally, the business areas did not go far enough in preparing themselves for the changes that would come with the new systems. They did not understand what might cause work volume increases, and how the time to complete new processes could be better managed. Therefore, the stabilization period took longer than anticipated.

In addition to these client profiles, TMG has provided advisory services to many other large and small North American utilities in the last year including Muscatine Water & Power, Los Angeles Department of Water and Power, City of San Jose, City of Seattle, and Duke Energy. A full list of our client portfolio and projects is available on request.
METHODOLOGY

Sabre-7™ Overview

TMG proposes our structured methodology, Sabre-7™, utilizing many project accelerators, templates, forms and boilerplates, as you would expect from a consulting firm with such a history. TMG approaches each project and each client as a unique opportunity. From almost 20 years of corporate experience we know that at a high level, there are many similarities between the City of Banning and other utilities providing similar services to its customers. However, experience tells us the City of Banning will have many differences that will make this project unique: your organization’s approach to procurement, contract negotiation, internal structure, funding and governance as well as operational differences such as your debt collection policy or financial reporting requirements.

Sabre-7™ has been designed to account for these differences while maintaining a structured and consistent approach that delivers results within a project framework: each project we run has common components that focus on quality, adherence to scope, budget and schedule.

While every consultant has a methodology, we consider our methodology a tool to assist us, not a handbook that we can give to inexperienced staff to walk our clients through a scripted question and answer session. Our experience tells us that these engagements are truly “people projects” and will be as successful as the caliber of the people The City of Banning assigns to it and the quality, dedication and professionalism of the consultant you choose.

In summary, Sabre-7™ addresses the seven common critical factors to any project’s success:

1. **Proper Staffing** (you and the vendor).
2. **Risk Mitigation** (know your project issues and develop risk mitigation plans before they occur).
3. **Scope Definition** (minimize scope creep by completely defining your project).
4. **Vendor Evaluation** (use a proper and comprehensive evaluation process - know their strengths & weaknesses).
5. **Contract Negotiation** (put it in writing, “the devil is in the details”).
6. **Project Management** (obtain experienced project guidance & advice).
7. **Quality Assurance** (continually monitor/assess progress and make adjustments).
APPROACH

Task 1.1: Kick-off

TMG’s first task is to conduct a kick-off meeting. This meeting is typically held with the stakeholders of the project and has the following objectives:

- We will present our proposed methodology, a preliminary schedule for the project and agree upon the management approach to be used.
- Learn from the City of Banning more about the drivers, success metrics, constraints and dependencies of the project;
- Form a relationship between the consultants that will be working with you for the duration of the study.

Deliverables:

1. Project Kick-off Meeting
2. Goals and Objective Documentation including Success Metrics

Assess the current systems

Having an understanding of your current applications, infrastructure, integration points, how they relate to one another and how they are utilized is critical to the strategy we will recommend to replace them. Following the kick-off meeting we will conduct short workshops with stakeholders and support staff in order to build and document a high level “ASIS” picture of your current application portfolio.

The deliverable of this activity is a high level document describing the application portfolio (with associated infrastructure), impacted stakeholders, urgency of replacement, systems of record and integration points. This information will feed our subsequent tasks and if the City makes the decision to move forward with a replacement, this information will feed your Acquisition Plan and RFP content.

Deliverable:

3. High-level “ASIS” application portfolio and assessment

Task 1.2: Cost Benefit Analysis

TMG will gather information from the City of Banning in order to determine current baseline costs for the ownership and operation of CIS and ERP. TMG will estimate installation costs and a ten-year cost of ownership for replacement CIS and ERP solutions. TMG and the City of Banning will work together to identify expected savings, cost reductions, deferred costs, possible revenue enhancements, and intangible benefits. The analysis will detail all estimated costs and all identified benefits will be recognized, projected over a 10-year cost of ownership.
Deliverable:

4. Cost Benefit Analysis

Task 1.3: Resource Analysis

This analysis will identify the necessary resources, both technical and functional, to successfully complete all necessary tasks for each phase of the project (including the procurement) and ongoing support after go-live. TMG will examine current staff’s skills, areas of expertise and availability and compare those to the needs of the project, identifying gaps. Our Resource Plan will recommend how to address identified gaps given the most cost-effective and labor sensitive approach.

Deliverable:

5. Resource Analysis and a Recommended Resource Plan

Task 1.4: Risk Analysis

This task will focus on building a risk matrix that will consider the various deployment options open to the City based on the scope of the proposed project and in the context of the City as a business. Our assessment of risk uses a structured methodology which produces empirical results that will be used to influence our recommendations in our final deliverable. This methodology relies heavily on our past experience and database of prior projects’ risks and on open and candid one-on-one interviews with the City’s staff.

Deliverable:

6. A List of Identified Risks and how they will be addressed in the future RFP / Acquisition Plan

Task 1.5: Feasibility Report
Review Deliverables and Adjust

A review of all deliverables made to date will be conducted with the City. Adjustments will be made in order to align our recommendations with the City, minimize risk, minimize resource contention and maximize cost-benefit ratios. Examples where alignments are significant may be a re-ordering of the implementation of ERP modules in order to bring forward business benefits to address pain points sooner; in turn, the impact of such a realignment will be examined by TMG to determine whether this realignment will affect the project’s risk or resource requirements. Thus, this final assessment may be an iterative process.
Prepare Feasibility Report

Once all data is compiled, analyzed, and reviewed by TMG and the City, TMG will compile a complete report for the City of Banning to include:

- Goals and Objectives
- High level ‘As Is’ assessment
- Resource Analysis
- Risk Analysis
- Cost Benefit Analysis
- Recommendations to City of Banning based on findings

Deliverable:

7. Feasibility Report
8. Verbal presentation to the City of Banning
# DELIVERABLES & PRICING

The following table describes each of the deliverables referred to the Approach Section referencing the task number in which it is delivered.

<table>
<thead>
<tr>
<th>Task</th>
<th>Title</th>
<th>Description</th>
<th>Estimated Effort</th>
<th>Not to Exceed Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Project Kick-off Meeting</td>
<td>Verbal presentation supported with PowerPoint of Mentor process adapted for The City of Banning.</td>
<td>40</td>
<td>$7,600</td>
</tr>
<tr>
<td></td>
<td>Goals and Objective Documentation</td>
<td>TMG’s understanding of The City of Banning’s strategic Goals and Objectives for a future acquisition.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>High-level “ASIS” application portfolio</td>
<td>High level document describing the application portolio and assessment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.2</td>
<td>Cost Benefit Analysis</td>
<td>An analysis detailing all estimated costs and all identified benefits.</td>
<td>80</td>
<td>$15,200</td>
</tr>
<tr>
<td>1.3</td>
<td>Resource Analysis</td>
<td>TMG’s findings having completed our resource analysis. Recommendations to The City of Banning on resourcing the procurement and implementation highlighting any gaps in skills, knowledge or headcount.</td>
<td>35</td>
<td>$6,650</td>
</tr>
<tr>
<td>1.4</td>
<td>Risk Analysis</td>
<td>Risk analysis report documenting risks using standard TMG risk management methodology plus recommended risk treatment plans.</td>
<td>35</td>
<td>$6,650</td>
</tr>
<tr>
<td>1.5</td>
<td>Feasibility Report Presentation</td>
<td>Compilation of all data and concluding evaluation. Verbal presentation of the report to the City of Banning.</td>
<td>60</td>
<td>$11,400</td>
</tr>
<tr>
<td></td>
<td>Totals</td>
<td></td>
<td>250</td>
<td>$47,500</td>
</tr>
</tbody>
</table>

Estimated pricing is based on an hourly rate of $190 and excludes travel and living expenses (T&L). Typically, we allocate a budgetary figure of 20% of the total estimated amount for T&L.
CONCLUSION

TMG is grateful for the opportunity to conduct this Feasibility Study for the City of Banning. We believe that there is no other firm in the industry today that can match our qualifications, experience and enthusiasm for CIS/ERP advisory services work. We will enjoy the opportunity to assist the City of Banning with this effort and are confident in our ability to provide the assistance you are seeking now and in the future.

Should you have any questions regarding this, please do not hesitate to contact us.

Regards,

Tim Almond, Executive Vice President
Primary Contact
TMG Consulting
1943 Davina Street
Henderson, NV 89074
Tim.Almond@TMGConsulting.com
Cell (702) 278-4302
ATTACHMENT B
Hello Fred:

I am following up in response to your request to Donna Stevener regarding information about the evaluation criteria and process used by NCPA, as part of its RFP process, with respect to the selection of TMG Consulting to provide MDM/CIS consulting services to participating city utilities. Attached please find the set of applicable interview questions that were asked to each of the interviewed consulting organizations, which included:

- AAC Utility Partners -- CIS,
- Black & Veatch -- CIS & MDMS,
- Leidos Engineering -- CIS,
- Navigant -- MDMS, and
- TMG/UtiliWorks -- CIS & MDMS.

The specific questions used in each interview setting were based on the consulting services offered to be provided by the respondent in response to the NCPA RFP.

The voting selection process was performed by a total of nine smart grid ad hoc committee participants, comprised of seven individuals representing five different NCPA member city utilities; and, two NCPA staff. While the interview panel kept notes and may have maintained individual scoring of the interviewees; a formal, aggregate voting tabulation was not performed as part of the post-meeting selection process. Instead, the panel unanimously decided to select TMG Consulting as its first choice based on the totality of the TMG team’s interview responses, professionalism, and who was perceived as the most suitable consulting organization to best meet the needs of NCPA member utilities.

For background information, below are the identified key timelines and elements related to the NCPA RFP for Smart Grid Consulting Services

- NCPA issued its RFP for Smart Grid Consulting Services on August 17, 2015 specific to the provision of services for one or both MDM and/or CIS consulting services;
- The goal objective of the RFP was for consultant to assess and develop technical specifications for each participating utility’s MDM and CIS needs, which would result in an RFP for vendor solution to ultimately implement applicable MDM and CIS solutions.
The RFP precluded the selected consultant from participating as a vendor solution provider for the same consulting services it was awarded.

NCPA received responses by the October 2, 2015 due date from the following eight consulting organizations, who offered to provide consulting services related to: CIS only, MDMS only, or combined CIS and MDMS consulting services.

<table>
<thead>
<tr>
<th>Consulting Organization Respondent</th>
<th>Consulting Services Offered</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAC Utility Partners</td>
<td>CIS only</td>
</tr>
<tr>
<td>Black &amp; Veatch</td>
<td>CIS &amp; MDMS</td>
</tr>
<tr>
<td>Katama Technologies</td>
<td>MDM only</td>
</tr>
<tr>
<td>Leidos Engineering</td>
<td>CIS only</td>
</tr>
<tr>
<td>Navigant Consulting</td>
<td>MDM only</td>
</tr>
<tr>
<td>Power System Engineering</td>
<td>CIS &amp; MDM</td>
</tr>
<tr>
<td>TMG/UtiliWorks</td>
<td>CIS &amp; MDM</td>
</tr>
<tr>
<td>Z2Solutions</td>
<td>CIS &amp; MDM</td>
</tr>
</tbody>
</table>

The selection for final list of consultants to be interviewed in person by NCPA was based on the following evaluation criteria identified in the RFP:

- Completeness of Proposal.
- Proposed approach for undertaking tasks in this RFP.
- Past experience and expertise in undertaking similar evaluation projects; California Municipal Utility experience highly desired.
- Cost for Task A1 and A2, including hourly rates.
- Proposed project manager and team.
- References from other organizations served by the Consultant.

Please do not hesitate to contact me if you need any additional information regarding the consultant selection process or the Smart Grid Project in general.

Thank you,
Bob Caracristi
Manager, Information Services and Power Settlements
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678
916-781-4224

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.
Smart Grid Consultant Interview Questions

General Questions

1. Tell us about your company’s experience with implementing CIS and/or MDM solutions for municipal electric utilities. What specific projects have you conducted in California in the last 3 years?

2. Please describe your methodology for managing a project.
Some of the information we are looking for includes:
   a. What methodology and tools are used?
   b. How are risks and issues addressed?
   c. How is the workload divided between onsite and offsite staff (consultant)?
   d. How is the workload divided between City staff and your company’s staff?
   e. When a project falls behind schedule how do you respond?

3. Please describe your process for defining business requirements.
Some of the information we are looking for includes:
   a. What methodology is used?
   b. Does your team primarily work remotely or onsite?
   c. What tool set is used?
   d. How does your team define requirements that impact multiple stakeholder groups (between NPCA members, city departments, etc.)?
   e. How does your team resolve conflicts between different stakeholders?

4. What is your process for translating current “as-is” processes to “to-be” processes that incorporate today’s best business practices?
Some of the information we are looking for includes:
   a. Relevant, current experience related to business process improvement.
   b. Will you be conducting market research?
   c. How will you recommend process changes?
Smart Grid Consultant Interview Questions

5. What are your expectations of the client as to the following:
   a. Staffing
   b. Logistics
   c. Other

6. How do you propose to handle the project with multiple members?
   a. Determine common requirements then add specific needs by member?
   b. Work up separate requirements/needs for each member?

7. How do you insure that all member needs are met regardless of agency size or magnitude of requirements?

Customer Information System

QUESTIONS FOR ALL POTENTIAL CIS CONSULTANT BIDDERS

1. Municipal Utilities have a unique culture and complexity. How do you foresee dealing with multi-departmental and organizational cross complexities when it comes to writing the CIS requirements for Members. Let me explain with a few examples:

   Example 1: A new CIS will need to bridge may existing gaps which are currently creating undue business process steps between Utility Stakeholders, Building-Inspection, IT-Finance and sub-units within Finance. The current CIS model does not fully integrate the billing system and the Accounting Software – PeopleSoft.

   Example 2: Inspection releases are processed in Tidmark, Software Application which is maintained and managed by another department. There is manual intervention for staff to put data in a shared Access Database and then someone else needs to input them into the Utility CIS system for processing.

2. Has your team written an RFP for a municipality that hosts its own CIS? If yes, how many?
Smart Grid Consultant Interview Questions

Has your team written an RFP for a CIS that has the vendor host the service for the municipality? If yes, how many?

Explain the pros and cons of the following:

1.) Software as A Service – having CIS vendor hosted services
2.) Municipality hosting the hardware/software

3. Identify the top three “technology” challenges project managers/consulting firms face when dealing with Municipalities. How will you and your company work to address and create a resolution to these challenges? (Please do not cite resources, staffing, or subject matter expertise as the top three).

4. For the most recent three utility clients (where your company assisted with vendor selection), please provide the specific ERP and/or CIS vendors chosen to handle utility billing.

Meter Data Management

1. Identify the top three “technology” challenges project managers/consulting firms face when dealing with Municipalities. How will you and your company work to address and create a resolution to these challenges? (Please do not cite resources, staffing, or subject matter expertise as the top three).

2. Municipal Utilities have a unique culture and complexity. How do you foresee dealing with multi-departmental and organizational cross complexities when it comes to writing the MDM requirements for Members.

3. For the most recent three utility clients (where your company assisted with vendor selection), please provide the specific vendors chosen to handle MDM.

4. Has your team written an RFP for a municipality that hosts its own MDM? If yes, how many?
Smart Grid Consultant Interview Questions

Has your team written an RFP for a MDM that has the vendor host the service for the municipality? If yes, how many?

Explain the pros and cons of the following:
- Software as A Service – having MDM vendor hosted services
- Municipality hosting the hardware/software

5. Has your firm been involved with analyzing and/or developing system architectures specific to AMI integration? If so, how would you define a robust and effective architecture of this type?

6. NCPA Members have various meter types, head-end systems, billing and other systems that tie into or use the data stored in an MDM. What will you do to assist us in successful integration of these various system components?
ATTACHMENT C
MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
TMG UTILITY ADVISORY SERVICES, INC.

This agreement for consulting services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-5420 ("Agency") and TMG Utility Advisory Services, Inc., a corporation with its office located at 9210 Honeycomb Drive, Texas 78737 ("Consultant") (together sometimes referred to as the "Parties") as of March 21, 2016 ("Effective Date") in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified therein.

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reallocation of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reallocate such personnel.

1.4 Services Provided. Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

1.5 Request for Services. At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the
Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day period specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount NOT TO EXCEED one million five hundred thousand dollars ($1,500,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency's option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency's option, when the Consultant's Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency's reasonable satisfaction.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received; for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.
2.4 **Authorization to Perform Services.** The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.

2.5 **Timing for Submittal of Final Invoice.** Consultant shall have ninety (90) days after completion of its Services to submit its final invoice for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services. NCPA will provide the on-site consultants with adequate workspace and access to equipment including conference rooms, printers, overhead projectors, white boards, desks, and computer communication service link for communication between NCPA and TMG.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars ($1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on “an occurrence” basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than $100,000. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the
Consultant, on or off Agency premises. The policy shall provide a minimum limit of $1,000,000 per each accident, with a self-insured retention or deductible of no more than $100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 **Professional Liability Insurance.** Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount not less than one million dollars ($1,000,000.00) and two million dollars ($2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars ($250,000) per claim. Such insurance shall be on "an occurrence" basis.

4.4 **All Policies Requirements.**

4.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 **Notice of Reduction in or Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 **Higher Limits.** If Consultant maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Consultant.

4.4.4 **Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Agency shall have the right to require Consultant to provide certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.
4.5 Waiver of Subrogation. Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

4.6 Consultant's Obligation. Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

5.1 Effect of Insurance. Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 Scope. Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly (“Liabilities”). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the Agency.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes
Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant’s failure to secure workers’ compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its full-time employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.

6.2 Consultant Not Agent. Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 Assignment and Subcontracting. This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant’s unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Except as already identified in Exhibit A, Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without
prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency’s satisfaction.

6.4 **Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

**Section 7.** **LEGAL REQUIREMENTS.**

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

**Section 8.** **TERMINATION AND MODIFICATION.**

8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.
8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;

8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

8.4.4 Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services. The aforementioned costs to complete Services that are unfinished at the time of breach shall not exceed 150% of the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. **KEEPPING AND STATUS OF RECORDS.**

9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 **Consultant's Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the
Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

9.4 **Confidential Information and Disclosure.**

9.4.1 **Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential information in accordance with this section.

9.4.2 **Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confident; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 **Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and
9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 **Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party’s representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party’s Information to any person other than those of the Receiving Party’s employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

**Section 10 MISCELLANEOUS PROVISIONS.**

10.1 **Attorneys’ Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

10.7 **Contract Administrator.** This Agreement shall be administered by Donna Stevener, Assistant General Manager, or her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

10.8 **Notices.** Any written notice to Consultant shall be sent to:

Tim Almond  
TMG Utility Advisory Services, Inc.  
9210 Honeycomb Drive  
Austin, TX 78737

Any written notice to Agency shall be sent to:

Randy S. Howard  
General Manager  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

With a copy to:

Michael F. Dean  
General Counsel  
Northern California Power Agency  
Meyers Nave  
555 Capitol Mall, Suite 1200  
Sacramento, CA  95814

10.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
10.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

10.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

10.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

10.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

10.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's Proposal, the Exhibits shall control.

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
10.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide Services to an Agency member, SCCPA and/or a SCPPA member (collectively for the purposes of this section only "Member") pursuant to section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member. If requested by Agency, such Member agrees to sign the "Acknowledgement of Agreement", attached hereto as Exhibit D and incorporated herein, prior to receiving Services under the Purchase Order.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

Date: 3/21/16

RANDY S. HOWARD, General Manager

TMG UTILITY ADVISORY SERVICES, INC.

Date: 3/15/16

TIM ALMOND, Executive Vice President

Attest:

[Signature]

Assistant Secretary of the Commission

Approved as to Form:

[Signature]

Assistant General Counsel
EXHIBIT A

SCOPE OF SERVICES

TMG Utility Advisory Services, Inc. ("Consultant") shall provide the NORTHERN CALIFORNIA POWER AGENCY ("Agency") with the following services:

- Advisory Services with respect to application planning, quality assurance oversight and procurement for Smart Grid Services that include, but are not limited to, the following:
  - Assist in the assessment of existing utility system applications and components related to Meter Data Management systems, Customer Information Systems, Advanced Metering Infrastructure, smart meters, geographic information system, communication network infrastructure and other devices, hereto referred to as "Smart Grid Services";
  - Assist in the development of functional, technical and service requirements for participants’ utility needs with respect to Smart Grid Services;
  - Assist in the development of specifications, including but not limited to Request for Proposals with respect to Smart Grid Services;
  - Assist in the evaluation of quality, product fit to requirements, configurability, or any other limitations with respect to vendor proposals for Smart Grid Services;
  - Assist in the role of project management related to project implementation for vendors’ Smart Grid Services with respect to all facets of project implementation including, but not limited to, project timelines, resource management, procurement, logistics, risk management, implementation, integration, monitoring, testing and project close out.
  - Assist in the evaluation of performance and maintenance with respect to Smart Grid Services.

- Client-Side Delivery Support Services to support utility IT projects that include, but are not limited to, the following:
  - Change management support for organizational readiness in preparation for enterprise software implementation;
  - Data conversion support to adapt legacy data to integrate with new system requirements;
  - Functional and Technical Support to support an organization’s key goals;
  - Project Management Office (PMO) for project management and oversight;
  - Testing support for testing of all stages throughout an enterprise software implementation effort;
  - Market research services and products for next-generation smart grid solutions.

- For the purpose of this contract Utiliworks Consulting LLC shall be the sole subcontractor authorized to perform services under this Agreement and shall not perform more than 50% of the work for any given project phase, without the prior written approval by the Agency.

These services may apply for use to members or other participants through the use of the NCPA Smart Grid Project Agreement, NCPA Support Services Agreement, or other applicable agreement.
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks pursuant to Section 1.5 of this Agreement, including hourly fees and expenses, shall not exceed $1,500,000. The hourly compensation shall be as follows:

TMG Utility Advisory Services, Inc. $190.00 per hour for first three (3) years

TMG Utility Advisory Services, Inc. may increase its hourly rate at no greater than 5% per annum for the final fourth (4th) and fifth (5th) years of this Agreement.

Reimbursable expenses to be paid to the Consultant by the Agency include travel costs incurred by the Consultant for the purpose of rendering services to the Agency. Travel costs include airline tickets, car rental, lodging and meals. Agency will not reimburse Consultant for time needed to complete travel.

Agency shall not provide Consultant with any additional compensation for labor costs, taxes, fees, subcontractors or any other costs, expenses or fees related to the performance of work under this Agreement, beyond those expressly set forth in this Exhibit B.

The compensation set forth in this Exhibit B may only be modified in accordance with Section 8.2 of this Agreement.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C (Not Applicable)

CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity
and employment history of all employees of

TMG UTILITY ADVISORY SERVICES, INC.

(Company name)

for contract work at

NORTHERN CALIFORNIA POWER AGENCY, 651 COMMERCE DRIVE, ROSEVILLE, CA 95678

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the
above-named project.

(Signature of officer or agent)

Dated this _______________ day of _______________, 20______.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT
SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE
FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE
PROJECT MANAGER.
EXHIBIT D

Acknowledgement of Agreement

This Acknowledgement confirms the intent of ____________, a ___________ ("Member") to participate in and utilize the Multi-Task Agreement to which this Exhibit is attached, including all other Exhibits attached hereto, between the Northern California Power Agency ("Agency") and ____________ ("Consultant") effective ____________, 20__ ("Agreement"). Member has reviewed the terms and conditions of the Agreement in detail and agrees to abide by them. It is understood and agreed that payments for Services by Consultant provided to Member shall be paid by Agency and funded by Member to Agency pursuant to a Support Services Program Agreement between Agency and Member. All invoices for Services for Member shall be addressed to Agency.

Further, Member agrees and acknowledges that the terms, conditions, and applicable Exhibits set forth in the Agreement will apply between Member and Consultant.

MEMBER

By: __________________________

Printed: _______________________

Title: _________________________

Date: _________________________

CONSULTANT

By: __________________________

Printed: _______________________

Title: _________________________

Date: _________________________
ATTACHMENT D
CITY OF BANNING

PROFESSIONAL SERVICES AGREEMENT FOR

CONSULTANT SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT (herein “Agreement”) is made and entered into this 13th day of June 2017, by and between the CITY OF BANNING, a California municipal corporation herein (“City”) and TMG Consulting, Inc., A Professional Corporation (“TMG”).

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Consultant shall perform the work or services set forth in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by reference. Consultant warrants that it has the experience and ability to perform all work and services required hereunder and that it shall diligently perform such work and services in a professional and satisfactory manner. Exhibit “B” shall list any exclusions or special requirements that supersede this contract boilerplate.

1.2 Compliance With Law. All work and services rendered hereunder shall be provide in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency of competent jurisdiction.

1.3 Licenses, Permits, Fees and Assessments. Consultant shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the services required by the Agreement.

1.4 Warranty. The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City’s own negligence. Consultant warrants all work under the Agreement to be of good quality and free from any defective or faulty material and workmanship. Consultant agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Consultant shall within ten (10) days after being notified in writing by the City of any defect in the work or nonconformance of the work to the Agreement, commence and prosecute with due diligence all work necessary to fulfill the terms of the warranty at his sole cost and expense. The 1-year warranty may be waived in Exhibit “A” if the services hereunder do not include construction of any improvements or the supplying of equipment or materials.
2. **COMPENSATION**

2.1 **Contract Sum.** For the services rendered pursuant to this Agreement, Consultant shall be compensated in accordance with the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference, but not exceeding the maximum contract amount of Forty Seven Thousand Five Hundred Fifty Dollars ($47,500.00) (“Contract Sum”).

2.2 **Invoices.** Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City Manager. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-Consultant contracts. Sub-Consultant charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City. City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant’s correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

2.3 **Additional Services.** City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, but not exceeding a totally contract amount of $25,000 or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City.

3. **PERFORMANCE SCHEDULE**

3.1 **Time of Essence.** Time is of the essence in the performance of this Agreement.

3.2 **Schedule of Performance.** Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the “Schedule of Performance” attached hereto as Exhibit “D” and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.
3.3 **Force Majeure.** The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer’s determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant’s sole remedy being extension of the Agreement pursuant to this Section.

3.4 **Inspection and Final Acceptance.** City may inspect and accept or reject any of Consultant’s work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant’s work within forth five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City’s acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Article 5, pertaining to indemnification and insurance, respectively.

3.5 **Term.** Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit “D”).

**4. COORDINATION OF WORK**

4.1 **Representative of Consultant.** Tim Almond, Executive Vice President is hereby designated as being the representative of Consultant authorized to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith. All personnel of Consultant and any authorized agents shall be under the exclusive direction of the representative of Consultant. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant’s staff and sub-consultants, and shall keep City informed of any changes.

4.2 **Contract Officer.** City Manager is hereby designated as being the representative the City authorizes to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith (“Contract Officer”). The City Manager of City shall have the right to designate another Contract Officer by providing written notice to Consultant.
4.3 Prohibition Against Subcontracting or Assignment. Consultant shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

4.4 Independent Consultant. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth. Consultant shall perform all services required herein as an independent Consultant of City with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City, or that it is a member of a joint enterprise with City.

5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages. The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than $1,000,000.00 per occurrence or if a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

(b) Worker’s Compensation Insurance. A policy of worker’s compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Consultant and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including “any auto” and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than either (i) bodily injury liability limits of $100,000 per person and $300,000 per occurrence and property damage liability limits of $150,000 per occurrence or (ii) combined single limit liability of $1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant’s insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and
their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated “A” or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City’s Risk Manager or other designee of the City due to unique circumstances.

5.2 Indemnification. To the full extent provided by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents against, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, including paying any legal costs, attorneys fees, or paying any judgment (herein “claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work or services of Consultant, its officers, agents, employees, agents, sub-consultants, or invitees, provided for herein (“indemnors”), or arising from Consultant’s indemnors’ negligent performance of or failure to perform any term, provision, covenant, or condition of this Agreement, except claims or liabilities to the extent caused by the negligence or willful misconduct of the City indemnitees.

5.3 General Insurance Requirements. All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant’s insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

6. RECORDS, REPORTS, AND RELEASE OF INFORMATION
6.1 **Records.** Consultant shall keep, and require sub-consultants to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services and shall keep such records for a period of three years following completion of the services hereunder. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records.

6.2 **Reports.** Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement or as the Contract Officer shall require.

7. **ENFORCEMENT OF AGREEMENT AND TERMINATION**

7.1 **California Law.** This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California.

7.2 **Disputes: Default.** In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article.

7.3 **Legal Action.** In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 **Termination Prior to Expiration of Term.** This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days’ written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time
as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to Agency, except that where termination is due to the fault of the Agency, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder, but not exceeding the compensation provided therefore in the Schedule of Compensation Exhibit B. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.5 Termination for Default of Consultant. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

8. MISCELLANEOUS

8.1 Covenant Against Discrimination. Consultant covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color creed, religion, sex, marital status, national origin, or ancestry.

8.2 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.3 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, at City of Banning City Hall, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement.
8.4 **Integration; Amendment.** It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

8.5 **Severability.** In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 **Waiver.** No delay or omission in the exercise of any right or remedy by non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.7 **Attorneys' Fees.** If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which any be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

8.8 **Corporate Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BANNING, a municipal corporation

_____________________, City Manager

ATTEST:

_____________________, City Clerk

Marie Calderon, City Clerk

APPROVED AS TO FORM AND LEGAL CONTENT:

John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

CONSULTANT:

By: ________________________
Name: Tim Almond
Title: Executive Vice President

By: ________________________
Name: 
Title: 

Address: 1943 Davina Street
Henderson, NV 89074

Two signatures are required if a corporation

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF

On _______ , ______ before me, ______________ , personally appeared ______________ , proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: ____________________________

<table>
<thead>
<tr>
<th>CAPACITY CLAIMED BY SIGNER</th>
<th>DESCRIPTION OF ATTACHED DOCUMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ INDIVIDUAL</td>
<td>TITLE OR TYPE OF DOCUMENT</td>
</tr>
<tr>
<td>□ CORPORATE OFFICER</td>
<td></td>
</tr>
<tr>
<td>□ PARTNER(S)</td>
<td>NUMBER OF PAGES</td>
</tr>
<tr>
<td>□ LIMITED</td>
<td></td>
</tr>
<tr>
<td>□ GENERAL</td>
<td>DATE OF DOCUMENT</td>
</tr>
<tr>
<td>□ ATTORNEY-IN-FACT</td>
<td></td>
</tr>
<tr>
<td>□ TRUSTEE(S)</td>
<td></td>
</tr>
<tr>
<td>□ GUARDIAN/CONSERVATOR</td>
<td></td>
</tr>
<tr>
<td>□ OTHER</td>
<td></td>
</tr>
</tbody>
</table>

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

________________________________________

SIGNER(S) OTHER THAN NAMED ABOVE
EXHIBIT "A"

SCOPE OF SERVICES

Task 1.1: Kick-off

TMG's first task is to conduct a kick-off meeting. This meeting is typically held with the stakeholders of the project and has the following objectives:

We will present our proposed methodology, a preliminary schedule for the project and agree upon the management approach to be used.

Learn from the City of Banning more about the drivers, success metrics, constraints and dependencies of the project;

Form a relationship between the consultants that will be working with you for the duration of the study.

(1) Deliverables:

Project Kick-off Meeting

Goals and Objective Documentation including Success Metrics

b. Assess the current systems

Having an understanding of your current applications, infrastructure, integration points, how they relate to one another and how they are utilized is critical to the strategy we will recommend to replace them. Following the kick-off meeting we will conduct short workshops with stakeholders and support staff in order to build and document a high level "ASIS" picture of your current application portfolio.

The deliverable of this activity is a high level document describing the application portfolio (with associated infrastructure), impacted stakeholders, urgency of replacement, systems of record and integration points. This information will feed our subsequent tasks and if the City makes the decision to move forward with a replacement, this information will feed your Acquisition Plan and RFP content.

(2) Deliverable:

High-level "ASIS" application portfolio and assessment

Task 1.2: Cost Benefit Analysis

TMG will gather information from the City of Banning in order to determine current baseline costs for the ownership and operation of CIS and ERP. TMG will estimate installation costs and a ten-year cost of ownership for replacement CIS and ERP solutions. TMG and the City of Banning will work together to identify expected savings, cost reductions, deferred costs, possible revenue enhancements, and intangible benefits. The analysis will detail all estimated costs and all identified benefits will be recognized, projected over a 10-year cost of ownership.
(3) Deliverable:

**Cost Benefit Analysis**

Task 1.3: Resource Analysis

This analysis will identify the necessary resources, both technical and functional, to successfully complete all necessary tasks for each phase of the project (including the procurement) and ongoing support after go-live. TMG will examine current staff’s skills, areas of expertise and availability and compare those to the needs of the project, identifying gaps. Our Resource Plan will recommend how to address identified gaps given the most cost-effective and labor sensitive approach.

(4) Deliverable:

**Resource Analysis and a Recommended Resource Plan**

Task 1.4: Risk Analysis

This task will focus on building a risk matrix that will consider the various deployment options open to the City based on the scope of the proposed project and in the context of the City as a business. Our assessment of risk uses a structured methodology which produces empirical results that will be used to influence our recommendations in our final deliverable. This methodology relies heavily on our past experience and database of prior projects’ risks and on open and candid one-on-one interviews with the City’s staff.

(5) Deliverable:

**A List of Identified Risks and how they will be addressed in the future RFP / Acquisition Plan**

Task 1.5: Feasibility Report

c. Review Deliverables and Adjust

A review of all deliverables made to date will be conducted with the City. Adjustments will be made in order to align our recommendations with the City, minimize risk, minimize resource contention and maximize cost-benefit ratios. Examples where alignments are significant may be a re-ordering of the implementation of ERP modules in order to bring forward business benefits to address pain points sooner; in turn, the impact of such a realignment will be examined by TMG to determine whether this realignment will affect the project’s risk or resource requirements. Thus, this final assessment may be an iterative process.

d. Prepare Feasibility Report

Once all data is compiled, analyzed, and reviewed by TMG and the City, TMG will compile a complete report for the City of Banning to include:

- Goals and Objectives
- High level ‘As Is’ assessment
- Resource Analysis
- Risk Analysis
- Cost Benefit Analysis
- Recommendations to City of Banning based on findings

(6) Deliverable:

Feasibility Report

Verbal presentation to the City of Banning
EXHIBIT "B"

SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

Section 2.4, entitled **Prevailing Wages**, is deleted in its entirety.
EXHIBIT “C”

SCHEDULE OF COMPENSATION

9. DELIVERABLES & PRICING
The following table describes each of the deliverables referred to the Approach Section referencing the task number in which it is delivered.

<table>
<thead>
<tr>
<th>Task</th>
<th>Title</th>
<th>Description</th>
<th>Estimated Effort</th>
<th>Not to Exceed Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Project Kick-off Meeting</td>
<td>Verbal presentation supported with PowerPoint of Mentor process adapted for The City of Banning.</td>
<td>40</td>
<td>$7,600</td>
</tr>
<tr>
<td></td>
<td>Goals and Objective Documentation</td>
<td>TMG’s understanding of The City of Banning’s strategic Goals and Objectives for a future acquisition.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>High-level “ASIS” application portfolio</td>
<td>High level document describing the application portfolio and assessment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.2</td>
<td>Cost Benefit Analysis</td>
<td>An analysis detailing all estimated costs and all identified benefits.</td>
<td>80</td>
<td>$15,200</td>
</tr>
<tr>
<td>1.3</td>
<td>Resource Analysis</td>
<td>TMG’s findings having completed our resource analysis. Recommendations to The City of Banning on resourcing the procurement and implementation highlighting any gaps in skills, knowledge or headcount.</td>
<td>35</td>
<td>$6,650</td>
</tr>
<tr>
<td>1.4</td>
<td>Risk Analysis</td>
<td>Risk analysis report documenting risks using standard TMG risk management methodology plus recommended risk treatment plans.</td>
<td>35</td>
<td>$6,650</td>
</tr>
<tr>
<td>1.5</td>
<td>Feasibility Report</td>
<td>Compilation of all data and concluding evaluation.</td>
<td>60</td>
<td>$11,400</td>
</tr>
<tr>
<td></td>
<td>Presentation</td>
<td>Verbal presentation of the report to the City of Banning.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Totals | 250 | $47,500 |

Estimated pricing is based on an hourly rate of $190 and excludes travel and living expenses (T&L). Typically, we allocate a budgetary figure of 20% of the total estimated amount for T&L.
EXHIBIT "D"

SCHEDULE OF PERFORMANCE

I. Consultant shall perform Services within one year from execution of Agreement.

TMG’s first task is to conduct a kick-off meeting. This meeting is typically held with the stakeholders of the project and has the following objectives:

We will present our proposed methodology, a preliminary schedule for the project and agree upon the management approach to be used.

Learn from the City of Banning more about the drivers, success metrics, constraints and dependencies of the project;

Form a relationship between the consultants that will be working with you for the duration of the study.
ATTACHMENT E
RESOLUTION 2017-63


WHEREAS, the City of Banning has not upgraded or converted its software systems for utility billing, accounting, and workflow in over two decades; and

WHEREAS, it is vital to maintain adequate and reliable data as well as provide external and internal reports and processes; and

WHEREAS, there is a need to routinely replace upgrade software as part of technology progression.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City of Banning adopts Resolution 2017-63 authorizing the agreement with TMG Consulting for the Feasibility Study of the City’s Customer Information System and Enterprise Resource Management in the amount of $47,500.

SECTION 2. The City Manager is authorized to execute the service agreement with TMG Consulting in the amount of $47,500.

SECTION 3. The Administrative Services Director is authorized to make necessary budget adjustments and transfers within the General Fund and Utility departments.

PASSED, APPROVED AND ADOPTED this 13th day of June 2017.

__________________________
George Moyer, Mayor
City of Banning

ATTEST:

__________________________
Marie A. Calderon, City Clerk
City of Banning
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2017-63, was duly adopted by the City of Council of the City of Banning, California, at a regular meeting thereof held on the 13th day of June 2017, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Marie A. Calderon, City Clerk
City of Banning, California