The following information comprises the agenda for the regular meeting of the City Council.

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 – Banning Police Department Chaplain Merle Malland
- Pledge of Allegiance
- Roll Call – Council Members, Happe, Peterson, Wallace, Mayor Pro Tem Andrade, Mayor Welch

II. AGENDA APPROVAL

III. DECLARATION

1. Declaration of a Local Emergency Due to Storm Damage ......................... 1

IV. REPORT ON CLOSED SESSION

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

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.

APPOINTMENTS

None

VI. 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: Approve Consent items 1 through 10: Items ___, ___, ___, to be pulled for discussion. (Resolutions require a recorded majority vote of the total membership of the City Council)

2. Approval of Special Meeting – 2/5/2019 Minutes (Commission Interviews) ................................................................. 21
3. Approval of Special Meeting – 2/12/2019 Minutes (Workshop) ............... 41
4. Approval of Special Meeting – 2/12/2019 Minutes (Closed Session)…… 81
5. Approval of Regular Meeting – 2/12/2019 Minutes (Regular Meeting)…..85
6. Approval and Ratification of Accounts Payable and Payroll Warrants for January 2018 ................................................................. 97
7. Receive and File Cash, Investments and Reserve Report for January 2018 ....................................................................................... 125
8. Capital Improvement Projects Update for January ................................ 131
10. Adopt Resolution 2019-___, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2019-2020...................... 139
11. Adopt Resolution 2019-___, Approving Termination and Release of Liens in Favor of Cash Deposit for Construction of Public Improvements ........................................................................... 149

VII. PUBLIC HEARING(S)

1. Discuss and consider approving a twelve (12) month extension of time for Tentative Track Map No. 36939 for property generally located north of Wilson Street between Sunset Avenue and Sunrise Avenue (APNs 535-430-001 through 021, 535-431-001 through 015, 535-432-01 through 017, 535-070-004 through 006) and adopt Resolution No. 2018-18 granting the requested twelve (12) month extension of time. (Staff Report: Maryann Marks, AICP, Interim Community Development Director)

Recommendation: that the City Council, 1) conduct a public hearing on the proposed extension of time for Tentative Tract Map No. 36339; and 2) Adopt Resolution No. 2019-18 approving a twelve (12) month
2. Adoption of a Categorical Exemption, Approving Conditional Use Permit 18-8003 to Allow a Bar and Drinking Establishment with Outdoor Seating Area, in a Business Known as Finesse Lounge, Approving a Business Permit Required under Chapter 5.48 for Public Dances and Pool Rooms, and a Finding of Public Convenience for Necessity for the Issuance of a License by the California Department of Alcoholic Beverage Control for a Proposed Drinking and Catering Establishment in the Downtown Commercial (DC) Zone on the Property Identified as 144 Wets Ramsey Street. (APNS: 540-203-009,007)

(Staff Report: Maryann Marks, AICP, Interim Community Development Director)

Recommendation: Adopt Resolution 2019-___, 1) Adopt a Categorical Exemption, pursuant to Section 15301 (Existing Facilities) ; 2) Approve Conditional Use Permit 18-8003 for a Bar/Lounge in the Downtown Commercial zoning district; 3) Approve a Business Permit required under Section 5.48 of the banning Municipal Code for Public Dances and a Pool Table ; 4) Approve a Determination that Public convenience of Necessity would be served by the issuance an "ABC" type 489 license for ‘On-Sale General Public Premises’ and type 58 license ‘Caterer’s Permit’.

3. Resolution 2019-03, General Plan Amendment 18-2501; Ordinance No. 1541 approving Zone Change 18-3501 and making findings pursuant to CEQA; Design Review 18-7001; and Environmental Assessment 18-1501 for the Proposed Development of a 146,890 Square Foot Industrial Building within the General Commercial (GC) Land Use District Located on Developed and Undeveloped Property Located at 1897 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street, 1589 West Lincoln Street and Vacant Parcels to the East (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045)

(Staff Report: Maryann Marks, AICP, Interim Community Development Director)

Recommendation: 1) Open the public hearing, receive public comment, and close the public hearing; 2) Adopt the Resolution 2019-03 (Attachment 1), Adopting an Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Environmental Assessment 18-1501), Approving General Plan Amendment 18-2501, and Approving Design Review 18-7001 for a Proposed 146,890 Square Foot Industrial Warehouse Building Project; and 3) Introduce, as read by title only, Ordinance No. 1541
(Attachment 2), an Ordinance of the City Council of the City of Banning, California, Approving Zone Change No. 18-3501 to Amend the Zoning Classification for Real Property Located on the North Side of Lincoln Street, East of 22nd Street at 1897 West Lincoln Street, 1661 West Lincoln Street, 1589 West Lincoln Street and Vacant Parcels to the East (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045) from General Commercial (GC) to Business Park (BP) in Conformance with General Plan Amendment 18-2501.

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

REPORT BY CITY ATTORNEY

REPORT BY CITY MANAGER

IX. REPORT OF OFFICERS

   (Staff Report: Rochelle Clayton, Deputy City Manager)
   **Recommendation:** Adopt Resolution 2018-156, approving an amendment to Purchasing Policy B-30 to streamline and enhance the procurement and purchasing policy.

   (Staff Report: Rochelle Clayton, Deputy City Manager)
   **Recommendation:** Adopt Resolution No. 2019-02; and Authorizing the City Manager or designee to make necessary classification and budget adjustments, appropriations and transfers related to salary and benefits.

3. Resolution 2019-____, Approving an Amendment to the City's Agreement with CalPERS relative to Safety Member Benefits, to allow a 4% Employer Paid Member Contribution for Qualifying Safety Members of the Banning Police Department.
   (Staff Report: Rochelle Clayton, Deputy City Manager)
   **Recommendation:** Adopt Resolution 2019-XX, approving an amendment to the City’s Agreement with CalPERS relative to Safety
Member Benefits, to allow a four percent (4%) Employer Paid Member Contribution ("EPMC") for qualifying Safety members of the Banning Police Department, as approved by Resolution 2018-122.

4. Amendment to the Joint Powers Agreement and Bylaws of the Western Riverside Council of Governments to make various updates. 
   *(Staff Report: Douglas Schulze, City Manager)*
   **Recommendation:** that the City Council approve the amendment to the Joint Powers Agreement and Bylaws of the Western Riverside County Council of Governments to make various language updates.

5. Resolution No. 2019-____, Approving a Memorandum of Understanding (MOU) between the Cities of Banning and Beaumont for the free fare promotion made available through low carbon operations program (LCTOP) funds. 
   *(Staff Report: Heidi Meraz, Community Services Director)*
   **Recommendation:** that the City Council adopt resolution No. 2019-_____, approving the Memorandum of Understanding.

6. Resolution 2019-____, Approving an agreement for the purchase of certain real property interests from the real property at 1909 E. Ramsey Street (APN: 532-120-011) 
   *(Staff Report: Ted Shove, Economic Development Manager)*
   **Recommendation:** Adopt resolution, 1) approving the Agreement for the purchase of certain real property interests from real property at 1909 E. Ramsey Street (APN: 532-120-011; 2) authorize the City Manager to execute agreement for purchase and sale and escrow instructions and certificate of acceptance for portions of APN: 532-120-011; and 3) authorize the Administrative Services Director to make the necessary budget adjustments and appropriations for FY 2018.

7. Resolution No. 2019-____, Awarding a Professional Services Agreement (PSA) for the design of the north San Gorgonio Avenue building demolition and parking lot improvements to Cozad & Fox, Inc. in the amount of $59,960. 
   *(Staff Report: Art Vela, Director of Public Works)*
   **Recommendation:** that the City Council: 1) adopt resolution No. 2019-_____, awarding a Professional Services Agreement to Cozad & Fox, Inc.; 2) authorize the City Manager or his designee to make the necessary budget adjustments; and 3) authorize the City Manager or his designee to execute the Professional Services Agreement with Cozad & Fox, Inc. of Hemet, California in the amount of $59,960.
(Staff Report: Tom Miller, Electric Utility Director)  
**Recommendation:** Adopt Resolution 2019-____, 1) Amending Fiscal Year 2019 and 2020 public benefits budget to include energy efficiency and solar PV evaluation specifically for Banning Unified School District ("BUSD") solar projects at an amount not to exceed $60,000 for the Electric Utility and; 2) Authorizing the Electric Utility Director or his/her designee to approve additional public benefits spending for Fiscal Year 2019 and 2020 upon direction of Banning City Council, and shall not exceed $60,000 unless otherwise agreed to in writing by the City of Banning.

(Staff Report: Tom Miller, Electric Utility Director)  
**Recommendation:** Adopt Resolution 2019-____, 1) Temporarily Suspending the Electric Utility rate restructuring, as outlined in Resolution 2018-130, for master-metered mobile home parks only; 2) Authorizing the Electric Utility Director or his/her designee to reinstate the rate restructuring for master-metered mobile home parks once the City Attorney has indicated that all applicable issues have been resolved and all regulations adhered to.

**BANNING UTILITY AUTHORITY (BUA)** – Next Meeting, March 12, 2019, 5:00 p.m.

**BANNING FINANCING AUTHORITY (BFA)** – no meeting.

**X. ITEMS FOR FUTURE AGENDAS**

1. Mills Act Update  
2. Fee Suspension Update  
3. Website Redesign  
4. Street Naming Policy to Honor Land Owners  
5. Contingency Plan for Residents During Emergencies  
6. Appraisals Update  
7. Honor Banning High School Senior Aliyah Amis

**XI. ADJOURNMENT**

**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]

**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.
TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Laurie Sampson, Executive Assistant
MEETING DATE: February 26, 2019
SUBJECT: Resolution 2019-___, Declaring a Local Emergency Due to Storm Damage

RECOMMENDED ACTION:

Adopt a Resolution of the Council of the City of Banning Declaring a Local Emergency Caused by Heavy Rain, Storm Conditions, and Flooding.

DISCUSSION:

On, Thursday, February 14, 2019 heavy rainfall resulted in flooding of certain areas within City limits. The Director of Emergency Services, Douglas Schulze, proclaimed the existence of a local emergency on Tuesday, February 19, 2019 (see attachment 1). It is recommended that the City Council adopt a Resolution Declaring the Existence of a Local Emergency (Attachment 2) caused by flooding commencing on February 14, 2019.

OPTIONS:

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

ATTACHMENTS:

1. Proclamation of the Existence of a Local Emergency
2. Resolution Declaring the Existence of a Local Emergency
3. Pictures of Locations Affected by Storm Damage
ATTACHMENTS:
1. Proclamation of the Existence of a Local Emergency
2. Resolution Declaring the existence of a Local Emergency
3. Pictures of Locations Affected by Storm Damage

Approved by:

[Signature]

Douglas Schulze
City Manager
ATTACHMENT 1

Proclamation of the Existence of a Local Emergency
CITY OF BANNING
STATE OF CALIFORNIA

PROCLAMATION OF A LOCAL EMERGENCY
BY THE DIRECTOR OF EMERGENCY SERVICES

WHEREAS, Ordinance 1378 of the City of Banning empowers the Director of Emergency Services to proclaim the existence of a “Local Emergency” when the City Council is not in session; and
WHEREAS, the Director of emergency services finds:

That at the time of this proclamation the City Council is not in session; and

That conditions of extreme peril to the safety of person and property have arisen within the City of Banning caused by severe winter storms, resulting in subsequent flooding, rockslides and road closures; and

There exists an imminent threat to life, property and critical infrastructure; and

Limited resources within the City are available due to the number of ongoing incidents throughout Riverside County; and

State Resources have been called upon to assist in flood fighting efforts and to clear blocked roadways; and

Evacuation of critical facilities and citizens are possible; and

Communities in the unincorporated areas are isolated; and

That the aforementioned conditions of extreme peril warrant and necessitate the proclamation of a “Local Emergency”.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a “Local Emergency” exists throughout the City of Banning; and

IT IS FURTHER PROCLAIMED AND ORDERED that during existence of said “Local Emergency” the powers, functions and duties of the Director of Emergency Services and the Emergency Management Organization of this County shall be those prescribed by State law and the charter, ordinances, resolutions and approved plans of the City of Banning in order to mitigate the effects of said “Local Emergency”; and

IT IS FURTHER PROCLAIMED AND ORDERED that said “Local Emergency” shall be deemed to continue to exist for the next fourteen days; and, thereafter by ratification of the City of Banning, until its termination is proclaimed by the City Council of the City of Banning; and

IT IS FURTHER PROCLAIMED AND ORDERED that a copy of this proclamation be forwarded to the Governor of California with the request that he proclaim the existence of a State of Emergency throughout Riverside County and that the Governor request a Presidential Declaration.

Dated: February 21, 2019

[Signature]
Director of Emergency Services
City of Banning
ATTACHMENT 2
Resolution Declaring the Existence of a Local Emergency
RESOLUTION NO. 2019-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DECLARING A LOCAL EMERGENCY CAUSED BY HEAVY RAIN, STORM CONDITIONS, AND FLOODING

WHEREAS, Chapter 6A, Section 6 of the Municipal Code of the City of Banning empowers the Director of Emergency Services to proclaim the existence or threatened existence of a disaster or an emergency, and the termination thereof; and

WHEREAS, the City Council of the City of Banning has been requested by the Director of Emergency Services of said City to confirm the existence of a local emergency therein; and

WHEREAS, on February 21, 2019, the Director of Emergency Services of the City of Banning, Douglas Schulze, signed a Proclamation of Existence of a Local Emergency, declaring a local emergency due to a natural disaster caused by severe flooding conditions as of February 14, 2019; and

WHEREAS, the City Council does hereby find that:

1. The conditions of extreme peril to the safety of persons and property have arisen with said City, caused by flooding commencing on or about February 14, 2019; and
2. The conditions of extreme peril warrant and necessitate the proclamation of the existence of a local emergency;

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

1. A local emergency now exists throughout said City;
2. It is ordered that during the existence of said local emergency the powers, functions, and duties of the Director of emergency Services and the emergency organization of this city shall be those prescribed by state law, by ordinances, and resolutions of this city approved by the City Council; and
3. It is further proclaimed and ordered that said local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Banning.

PASSED, APPROVED AND ADOPTED this 26th day of February, 2019.

Arthur L. Welch, Mayor
City of Banning
Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-___, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2019, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Daryl Betancur, Deputy City Clerk
City of Banning, California
ATTACHMENT 3
Pictures of Locations
Affected by Storm Damage
26°NE (T) 33°57'4"N, 116°52'48"W ±16.4ft ▲ 2717ft
354°N (T) 33°54'50"N, 116°51'3"W ±16.4ft ▲ 2106ft
140°SE (T)  33°54'51"N, 116°51'3"W ±16.4ft  ▲ 2110ft
MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

A special meeting of the Banning City Council was called to order by Mayor Welch on February 5, 2019 at 9:00 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL/BOARD MEMBERS PRESENT: Council Member Happe
Council Member Peterson
Council Member Wallace
Mayor Pro Tem Andrade
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Heidi Meraz, Community Services Director
Daryl Betancur, Deputy City Clerk

COMMISSIONER INTERVIEWS:
1. Arthur J. Cabral
2. Frank Diaz
3. Laura Leindecker
4. Leroy Miller
5. Vickie Sellers
6. Shelby Waldron
7. Robert Ybarra

Following the interviews, the City Council engaged in a brief discussion relative to the credentials, and suitability of each candidate to serve on the Parks & Recreation Commission.

PUBLIC COMMENT

None

Special City Council Meeting Minutes – 02/05/2019 9:00 a.m.
ADJOURNMENT

By consensus, the meeting adjourned at 11:22 a.m.

Minutes Prepared by:

______________________________
Daryl Betancur, Deputy City Clerk

Attachments:
Exhibit A: Parks & Recreation Commissioner Applications
Exhibit B: Interview Questions

These Action Minutes reflect actions taken by the City Council. The entire discussion of this meeting can be found by visiting the following website: https://banninglive.viebit.com/player.php?hash=HWr93tYuMRK or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.
Exhibit "A"

to the February 5 2019
9:00 A.M. Special City Council Meeting

Parks & Recreation Commission Applications
COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for: PARKS AND RECREATION

Name: Arthur J. Cabral

Email Address: 

Address: 123 Any Street, Banning, CA, 92220

Telephone Numbers: Home Cell

If employed, where do you work and what is your position? Temples, Human Resource Analyst, Business Owner.

Length of residence in Banning: 25 yrs.

Are you a registered voter in Banning? Yes [ ] No [ ]

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

Banning Graduate, some college ed. 15+ years non-profit work, Volunteer with city in sports (baseball, football) Board member at Banning Chamber of Commerce.
What types of major issues should this committee or board deal with?

Focus and provide safe environments for our youth with more after-school activities, cleaning parks & creating new parks or park activities.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

Processes take too long to approve, I would like to be involved in the process and figure out how the city can be more efficient and accountable to timelines.

Your name will be considered by the City Council upon receipt of your application.

This is a volunteer position. You must be a registered voter and reside in the City of Banning. You will also need to be fingerprinted and pass a background investigation.

Please return to: City Clerk's Office  
City of Banning  
99 E. Ramsey Street  
P. O. Box 998  
Banning, CA 92220  

RETURN BY: January 11, 2019  
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 1/11/19  
Signed: [Signature]

Page 2 of 2
COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for: PARKS AND RECREATION

Name: Frank Diaz
Email Address: 
Address: Banning Ca 92220
Telephone Numbers: Home Cell
If employed, where do you work and what is your position? Fountain Valley School District - Operation Supervisor

Length of residence in Banning: 2y 3 months
Are you a registered voter in Banning? Yes X No

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

My background relevant to the duties of the post are as follows:
* Education - High School Diploma with 38 units of college.
* Work Experience - 25 yrs in Facilities, Maintenance & Operations. 17 yrs experience leading school departments of 25 - 280 employees. 17 yrs developing budgets, working with contractors, and supervising projects of $1,000 -6 million.
* Civic Involvement - Banning SD (OPAC) District Resident Advisory Committee Officer, community volunteer with Habitat for Humanity.
What types of major issues should this committee or board deal with?

The committee would advise the City Council on community planning, events, programs, operational activities and facilities matters that pertain to the Parks & Recreation.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

* The specific problems facing the board and how I feel they might be resolved are as follows:
  * Community Outreach - can be resolved by utilizing networking groups and/or social media.
  * Community Involvement - can be resolved by utilizing networking groups and/or social media. Advertisement based on core values of events with specific goals.

Your name will be considered by the City Council upon receipt of your application.

This is a volunteer position. You must be a registered voter and reside in the City of Banning. You will also need to be fingerprinted and pass a background investigation.

Please return to: City Clerk's Office  
City of Banning  
99 E. Ramsey Street  
P. O. Box 993  
Banning, CA 92220

RETURN BY: January 11, 2019  
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 1/8/19  
Signed: ___

Page 2 of 2
COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for:  
PLANNING COMMISSION

Name:  
Laura L. Leindecker

Email Address:  

Address:  

Telephone Numbers:  
Home  
Cell  

If employed, where do you work and what is your position?  
LLLeindecker & Associates, proprietor

Length of residence in Banning  
14 years

Are you a registered voter in Banning?  
Yes  X  No  

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

Graduated UC Santa Barbara with a Bachelors Degree in Communications; worked in NYC in commercial real estate/commercial development. Continued career in financial publishing for: CFO's i.e. IMF, World Bank events. My background has continued to be in business, business development. LLLeindecker & Associates is an independent public relations business - I currently am working with a client which I have been retained for more than 4 years whose commercial property went through a development phase; a 2 year process - we are now in a zoning phase of one of his projects. I have worked with the Cities departments of planning, building, zoning, permits, fire. Personal - originally from Goleta/Santa Barbara; never married, no children. Local Rotarian, Chamber of Commerce VP; a Rotarian; have been on the business ad hoc committee; believe in Banning, believe in business!
What types of major issues should this committee or board deal with?

Improving the quality of our Parks, especially during the economic restraints our City may go through; before I can identify specific issues/items I would need to review the last few Board Agendas. I do know about Roosevelt Park, I am aware individuals/public have their own priorities/projects—these might not always be feasible. Work for the good of the entire City.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

Parks/Recreation - keeping the City balanced, safe - well rounded. We have done a great job.

Your name will be considered by the City Council upon receipt of your application.

This is a volunteer position. You must be a registered voter and reside in the City of Banning. You will also need to be fingerprinted, pass a background investigation and attend a brief orientation session at City Hall to explain the role of commissioners on Wednesday, October 10, 2018 from 4:00 p.m. to 4:30 p.m.

Please return to: City Clerk's Office  
City of Banning  
99 E. Ramsey Street  
P. O. Box 998  
Banning, CA 92220  

RETURN BY: October 12, 2018  
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 1/10/2019  
Signed:
COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for: PARKS AND RECREATION

Name: Leroy Miller

Email Address: 

Address: Banning, CA 92220

Telephone Numbers: Home -- Cell --

If employed, where do you work and what is your position? 

Length of residence in Banning 54 years

Are you a registered voter in Banning? Yes Yes No 

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

I went to school in Banning and have completed some college. I have worked for the City of Banning and Cal Fire. I have worked in Parks and Recreation for 10 years, Banning Youth Baseball, Concerts in the Park, One on One Board for the City and schools, and helped with the Senior Citizen and Recreation Department.
What types of major issues should this committee or board deal with?
Funding programs for the Recreation department, updating of the City Master Plan,
funding for playground equipment, and looking at new park plans

Please identify specific problems facing the committee or board on which you would like to
serve and explain how you feel they might be resolved:
The homeless problem in the parks and graffiti might be resolved with Park Rangers.
Funding needs might be resolved with increased fees and by generating other revenue.

Your name will be considered by the City Council upon receipt of your application.

This is a volunteer position. You must be a registered voter and reside in the City of
Banning. You will also need to be fingerprinted and pass a background investigation.

Please return to: City Clerk's Office
City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: January 11, 2019
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 1-8-19 Signed: [Signature]

Page 2 of 2
COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for: PARKS AND RECREATION

Name: Vickie A. Selle

Email Address:

Address: 2023 W. 6th St. Banning, CA 92220

Telephone Numbers: Home ___________________ Cell ___________________

If employed, where do you work and what is your position?

Banning High School - Banning HS principal secretary

Length of residence in Banning 63 years

Are you a registered voter in Banning? Yes ☑ No

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

Graduated from Banning High School 1974 - graduated Nutson College College of Science

I have been on the Board for six years. I am also a member of the City Council.

I am the assistant to the vendor representative. I also have attended school at Cal State University at San Bernardino.

my position as Banning High School will help the city coordinate activities with the school district and
What types of major issues should this committee or board deal with?
Being available with others to address certain community issues and working with the city to resolve problems that may arise. Being part of a committee or a council as well as funding.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

I am a great task master. One challenge getting resolution. A big issue the committee is facing is not having a complete committee. I can only dedicate and would be the 100% of the time. If an emergency and request the committee to make a decision I would attend. I believe in community service and would not an opportunity to fail.

Your name will be considered by the City Council upon receipt of your application.

This is a volunteer position. You must be a registered voter and reside in the City of Banning. You will also need to be fingerprinted and pass a background investigation.

Please return to:  City Clerk's Office  
City of Banning  
99 E. Ramsey Street  
P. O. Box 998  
Banning, CA 92220  

RETURN BY: January 11, 2019  
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 1/11/2019  
Signed:  Vicky P. Sellers
COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for: PARKS AND RECREATION

Name: Shelby Waldron

Email Address: 

Address: 30115 E. Banning St. Banning

Telephone Numbers: Home ( _____________ ) Cell ( _____________ )

If employed, where do you work and what is your position?

Graduate Student at California Baptist University; Part-time private child-care provider.

Length of residence in Banning 22 years

Are you a registered voter in Banning? Yes ___ X ___ No _____

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

Community Service: Volunteer mentor for anti-bullying club at Ramona High School; Choreographer for youth cheerleading program; Former junior board member of youth football program, Pass Redskins, where I worked snack bar, ran game clocks, field set-up & maintenance and picked up trash after use.

Education: Beaumont High School – (2014); University of Dallas – B.A. in Psychology (2018); Currently a master’s student at California Baptist University studying sport and performance psychology.

Leadership Roles/ Committees and Boards: Founder and CEO of non-profit “Shelby’s Locker”; Co-Founder of Public Speaking Club “Next Level Speakers”; Student Athlete Advisory Committee (SAAC) (Univ. of Dallas); Basketball representative for Fellowship of Student Athletes (FCA) (Univ. of Dallas); BHS Prom Committee 2013; BHS C/O 2014 Senior I.O.C. Representative;

Scholarships: Kohl’s community cares scholarship (community service-based award); Soroptimist International Violet Richardson community service award
What types of major issues should this committee or board deal with?

I am not aware of any current major issues within the city because I have just recently relocated back to Banning; however, I think the parks and recreation board would focus on making sure Banning parks are clean, well lit, and safe. I would think a priority of the board would be working with other organizations to provide as many community activities, sports, and events for the residents of Banning, especially the youth.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

As noted above, I am not aware of any specific problems. I have always taken advantage of the parks around town and was a participant in any and all youth activities and sports, so I just want to volunteer and give back to my community and I saw this opening and thought it would be a good place for me to start.

Your name will be considered by the City Council upon receipt of your application.

This is a volunteer position. You must be a registered voter and reside in the City of Banning. You will also need to be fingerprinted and pass a background investigation.

Please return to:  City Clerk's Office
City of Banning
99 E. Ramsey Street
P.O. Box 998
Banning, CA 92220

RETURN BY:  January 11, 2019
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: December 22, 2018  Signed: [Signature]
COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board you are applying for: PARKS AND RECREATION

Name: Robert L. Tharva III

Email Address: 

Address: 62220

Telephone Numbers: Home: Cell: 

If employed, where do you work and what is your position?

Precision Material Handling Inc.

CEO/Owner

Length of residence in Banning 5 years

Are you a registered voter in Banning? Yes X No

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

I grew up in Yucaipa and graduated from Chaffey College. I am the CEO/Owner of Precision Material Handling Inc. and have been successful in my business for 11 years. I moved my family and business to Banning around 2017. I am involved in community events that sponsor local Kitchen. I am currently the President of the Banning Chamber of Commerce, and I am working with the Board of Directors on new events for the local business owners and the community to bring new life to our community. Our goal is to make Banning a destination and bring new business to our city.
What types of major issues should this committee or board deal with?

Promoting the use of and advocating the use of parks and recreational services.
Help create programs to be implemented by the Park and Recreation.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

Banning needs a sports park for soccer and other sports for the youth.
Also Banning need some kind of events that will bring people to Banning year round
Something that will bring much needed revenue to our city.

Your name will be considered by the City Council upon receipt of your application.

This is a volunteer position. You must be a registered voter and reside in the City of Banning. You will also need to be fingerprinted and pass a background investigation.

Please return to: City Clerk’s Office
City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: January 11, 2019
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 1/10/19 Signed:

Page 2 of 2
Exhibit “B”

to the February 5, 2019
9:00 A.M. Special City Council Meeting
Interview Questions
Parks & Recreation Commission
Interview Questions

1. Describe your involvement in community activities, volunteer and civic organizations.

2. What is about the Parks & Recreation that interest you? What qualities, experience and expertise would you bring to the Parks & Recreation Commission?

3. How would you see your role as commissioner when recommending policy and working with the council?

4. What do you see as the current primary issues with parks and recreation in Banning?

5. If appointed, what specific goals would you like to see the Parks and Recreation Commission achieve?

6. We have concluded the interview. Do you have any questions for us?
MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

COUNCIL/BOARD MEMBERS PRESENT: Council Member Andrade
Council Member Happe
Council Member Peterson
Council Member Wallace
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Doug Schulze, City Manager
Rochelle Clayton, Deputy City Manager
Kevin Ennis, City Attorney
Tom Miller, Electric Utility Director
Art Vela, Public Works Director
Luis Vela, Senior Civil Engineer
Kyle Nelson, Montrose Environmental Group
Daryl Betancur, Deputy City Clerk

1. CALL TO ORDER

1.1 Roll Call

A special meeting of the Banning City Council was called to order by Mayor Welch on February 12, 2019 at 2:30 p.m. at the Banning Civic Center Council Chambers at 99. E. Ramsey Street, Banning, California.

2. WORKSHOP

2.1 Nitrogen removal Feasibility Study

Art Vela, director of Public Works Director and Kyle Nelson from Montrose Environmental Group, Inc. presented the staff report and answered Council's questions.

3. PUBLIC COMMENT

There was no public comment.

4. ADJOURNMENT

By consensus, the meeting adjourned at 3:38 p.m.
Minutes Prepared by:

Daryl Betancur, Deputy City Clerk

Attachment: Exhibit A- Central Wastewater Treatment Plant Upgrades Presentation

These Action Minutes reflect actions taken by the City Council. The entire discussion of this meeting can be found by visiting the following website: https://banninglive.viebit.com/player.php?hash=RIUVzrKc1PnP or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.
Exhibit “A”

To the February 12, 2019
2:30 P.M. Special City Council Meeting
Workshop
Nitrogen Removal Feasibility Study
City of Banning City Council Workshop
Central Wastewater Treatment Plant Upgrades

February 12, 2019
City Council Workshop Agenda

- Background
- Nitrogen Removal – Regional Board Order
- Title 22 Compliance
  - Recycled Water
  - Groundwater Recharge
- Recommendations
- Implementation and Financing Options
Existing Site

- Wastewater Treatment Plant
- Sludge Drying Beds
- Percolation Ponds
- Airport
Existing Treatment

- Trickling Filters
- Nitrogen Removal
- Secondary Clarifiers
- Percolation Ponds
- Primary Clarifiers
- Disinfection
- Digesters
- Headworks
Previous Efforts

- 2007 – Parsons evaluated 1.5 MGD expansion
  - Goal was to produce recycled water
  - Membrane bioreactor (MBR) was selected
  - 90% design completed for an MBR system

- 2015 – Carollo evaluated upgrading existing WWTP to comply with Title 22 requirements
  - Goal was also to produce Recycled Water
  - Evaluation did not consider future nitrogen limitations
New Permit Requirements

- June 30, 2016 Regional Water Quality Control Board adopted Order R7-2016-0015 establishing more stringent requirements for the Banning WWTP
- Most consequential is a total nitrogen discharge limit of 10 mg-N/L
- Current total nitrogen discharge is 29 mg-N/L
- Feasibility study to determine best treatment technologies and cost of compliance
- Workplan and schedule to comply with new total nitrogen limit
Recommended a hybrid approach of using recycled water for irrigation and groundwater recharge to maximize use of water resources at the lowest cost.

Determined that the existing wastewater treatment capacity of 3.6 MGD is adequate to meet sewer flows until at least 2025, even with optimistic growth projections.
Feasibility Study Objectives

- Comply with Regional Board Order
- Evaluate technologies that also support future goals:
  - Produce recycled water
  - Recharge groundwater in the Banning Basin
- Identify existing plant components that can be reused
  - Facility Condition Assessment
- Develop cost estimates for construction and O&M
### Discharge Standards

#### Key Board Order Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>30-day average</th>
<th>7-day average</th>
</tr>
</thead>
<tbody>
<tr>
<td>$20^\circ$C BOD$_5$</td>
<td>30 mg/L</td>
<td>45 mg/L</td>
</tr>
<tr>
<td>TSS</td>
<td>30 mg/L</td>
<td>45 mg/L</td>
</tr>
<tr>
<td>30-day Average Daily Discharge</td>
<td></td>
<td>&lt; 3.6 Million Gallons per Day</td>
</tr>
<tr>
<td>Total Nitrogen</td>
<td></td>
<td>10 mg-N/L</td>
</tr>
</tbody>
</table>

#### Additional Title 22 Requirements for Recycled Water and Groundwater Recharge

<table>
<thead>
<tr>
<th>Parameter</th>
<th>30-day average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turbidity</td>
<td>2 NTU</td>
</tr>
<tr>
<td>Total Suspended Solids (TSS)</td>
<td>3-5 mg/L</td>
</tr>
<tr>
<td>Disinfection</td>
<td>90-minute contact time; 5 mg/L chlorine residual</td>
</tr>
</tbody>
</table>
# Existing Water Quality

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Unit</th>
<th>Raw Wastewater</th>
<th>Primary Effluent</th>
<th>Plant Effluent</th>
<th>Combined Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>% Removal</td>
<td>Effluent</td>
<td></td>
</tr>
<tr>
<td>BOD</td>
<td>mg/L</td>
<td>320</td>
<td>30</td>
<td>224</td>
<td>24</td>
</tr>
<tr>
<td>TSS</td>
<td>mg/L</td>
<td>288</td>
<td>50</td>
<td>144</td>
<td>20</td>
</tr>
<tr>
<td>TDS</td>
<td>mg/L</td>
<td>420</td>
<td>0</td>
<td>420</td>
<td>437</td>
</tr>
<tr>
<td>TN</td>
<td>mg-N/L</td>
<td>45*</td>
<td>6</td>
<td>42.3</td>
<td>29</td>
</tr>
</tbody>
</table>

Data per 2015 – 2018 Annual Operations Reports, average flows of 2.0 MGD
*Data is from previous studies. New measurements will be taken to confirm values.
Preliminary Screening of Options

**Biological Systems**

A. Existing Trickling Filters  
B. Denitrification filter  
C. Oxidation ditch  
D. Conventional activated sludge  
E. Integrated Fixed-Film Activated Sludge (IFAS)  
F. Moving Bed Biofilm Reactor (MBBR)  
G. Membrane Bioreactor (MBR)  
H. Sidestream treatment  
I. Biologically active filtration  
J. Natural treatment systems  
K. Passive aeration rock filters

**Tertiary Filters**

A. Cloth media disks  
B. Pressurized sand filters  
C. Gravity sand filters

**Disinfection**

A. Sodium hypochlorite  
B. Chlorine gas  
C. UV

Board Order Nitrogen Removal

Title 22 Recycled Water
Nitrogen Removal Treatment Alternatives

- Alternative 1 – Increase Trickling Filter Recirculation Rate
- Alternative 2 – Conventional Activated Sludge
- Alternative 3 – Integrated Fixed-Film Activated Sludge (IFAS)
- Alternative 4 – Moving Bed Biofilm Reactor (MBBR)
- Alternative 5 – Membrane Bioreactor (MBR)
Detailed Analysis of Alternatives

- Selected design criteria and equipment sizing to meet discharge requirements at full 3.6 MGD rated capacity
- Developed mathematical models for analysis of each alternative design using an industry standard software package (BioWIN)
- Drafted scaled site layouts in AutoCAD
- Estimated capital and O&M costs
- Calculated 20-year life cycle costs at 2.5% annual inflation rate
Upgrades for All Alternatives

Lab and Control Building

Clarifier Capacity

Digester Capacity

Title 22 Improvements

EQ BASIN
Equalization (EQ) Basin

Daily Flow Fluctuations

- Current Daily Flow
- Future Daily Flow

Flow (MGD)

Time

12:00 AM 3:00 AM 6:00 AM 9:00 AM 12:00 PM 3:00 PM 6:00 PM 9:00 PM 12:00 AM
EQ Basin – modify existing pond
Alternative 1 – Increase Trickling Filter Recirculation Rate

- Current recirculation is 1Q
- Need minimum 3.5Q
- \( Q \) = flow into the plant

[Diagram showing water treatment process with primary clarifiers, trickling filter, and secondary clarifiers.]
Alternative 1 – Increase Trickling Filter Recirculation Rate

- Increase recirculation pump size
- Electrical upgrades
- Existing pipe sizes are adequate
Alternative 2 – Conventional Activated Sludge

- Activated sludge = clumps of biomass
- Oxygen is injected to convert ammonia
- Healthy organisms degrade organics
- Anoxic tank (no oxygen) allows for nitrogen removal
- Microorganisms convert nitrogen to nitrogen gas
Alternative 2 – Conventional Activated Sludge
Alternative 3 – IFAS

- Activated sludge and fixed media
- Greater density of bacteria grow on surface area of fixed media
- Increased treatment capacity in same sized tank
- Increased process reliability
Alternative 4 – MBBR

- Activated sludge and suspended biofilm carrier media
- Greater density of bacteria to grow on surface area of floating media
- Increased treatment capacity in same sized tank
- Increased process reliability
Alternative 5 – Membrane Bioreactor

- Biological reactor plus microfiltration membranes
- Typically hollow fibers arranged in cassettes
- Operate at higher biomass concentrations
- Produce high effluent water quality
- Process robustness
- Operated autonomously
Alternative 5 – Membrane Bioreactor
## Performance Comparison

### Effluent Concentrations (mg/L)

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Limit (mg/L)</th>
<th>Alternative 1 Trickling Filter</th>
<th>Alternative 2 Activated Sludge</th>
<th>Alternative 3 IFAS</th>
<th>Alternative 4 MBBR</th>
<th>Alternative 5 MBR</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOD</td>
<td>30</td>
<td>24.74</td>
<td>4.78</td>
<td>4.58</td>
<td>4.34</td>
<td>0.86</td>
</tr>
<tr>
<td>TSS</td>
<td>30</td>
<td>6.31</td>
<td>10.96</td>
<td>10.43</td>
<td>6.64</td>
<td>0.00</td>
</tr>
<tr>
<td>TN</td>
<td>10</td>
<td>9.92</td>
<td>7.49</td>
<td>7.4</td>
<td>8.00</td>
<td>7.74</td>
</tr>
</tbody>
</table>

**Similar Water Quality**

**Best Water Quality**
## Cost Comparison

<table>
<thead>
<tr>
<th>Unit Process</th>
<th>Alternative 2 Activated Sludge</th>
<th>Alternative 3 IFAS</th>
<th>Alternative 4 MBBR</th>
<th>Alternative 5 MBR</th>
</tr>
</thead>
<tbody>
<tr>
<td>EQ Basin</td>
<td>$2,008,000</td>
<td>$2,008,000</td>
<td>$2,008,000</td>
<td>$2,008,000</td>
</tr>
<tr>
<td>Primary Clarifier</td>
<td>$1,701,000</td>
<td>$1,701,000</td>
<td>$1,701,000</td>
<td>$1,701,000</td>
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<tr>
<td>Sludge Treatment</td>
<td>$2,227,000</td>
<td>$2,522,000</td>
<td>$2,353,000</td>
<td>$2,042,000</td>
</tr>
<tr>
<td>Lab and Control Building</td>
<td>$978,000</td>
<td>$978,000</td>
<td>$978,000</td>
<td>$978,000</td>
</tr>
<tr>
<td>Activated Sludge</td>
<td>$22,274,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>IFAS</td>
<td></td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>MBBR</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>MBR</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Construction Total</td>
<td>$29,188,000</td>
<td>$22,445,000</td>
<td>$27,473,000</td>
<td>$34,001,000</td>
</tr>
<tr>
<td>Annual O&amp;M</td>
<td>$402,000</td>
<td>$500,000</td>
<td>$474,000</td>
<td>$805,000</td>
</tr>
<tr>
<td>20-Year Life Cycle</td>
<td>$39,520,000</td>
<td>$45,280,000</td>
<td>$39,644,000</td>
<td>$66,043,000</td>
</tr>
</tbody>
</table>

- **Operational Complexity**
- **Higher Cost**
- **Highest Cost**
Title 22 Compliance

- State Water Resources Control Board Division of Drinking Water (DDW)
- Title 22 Code of Regulations
- Regulates water quality and system design for recycled water
- Recycled water for irrigation requirements
  - 2 NTU turbidity
  - Chlorine disinfection of CT 450 mg-min/L at 90 minutes modal contact time
Tertiary Filters – Cloth Media Disks

- Comply with Title 22 requirements
- Post secondary treatment
- Reduce Turbidity
- Improve disinfection efficacy
Chlorine Contact Basin

- 12.5% sodium hypochlorite
- Title 22 requires 90 minutes of contact time at peak dry weather flow
- CT 450 mg-min/L
- Additional 20’ x 60’ x 12’ chlorine contact tank will achieve 90 minute contact time
- Canopy covers to prevent chlorine degradation
## Comparison – Title 22 Cost

<table>
<thead>
<tr>
<th>Unit Process</th>
<th>Alternative 2 Activated Sludge</th>
<th>Alternative 5 MBR</th>
</tr>
</thead>
<tbody>
<tr>
<td>EQ Basin</td>
<td>$2,008,000</td>
<td>$2,008,000</td>
</tr>
<tr>
<td>Primary Clarifier</td>
<td>$1,701,000</td>
<td>$1,701,000</td>
</tr>
<tr>
<td>Tertiary Filter</td>
<td>$1,814,000</td>
<td>$0</td>
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<tr>
<td>Chlorine Contact Basin</td>
<td>$1,097,000</td>
<td>$1,097,000</td>
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<tr>
<td>Sludge Treatment</td>
<td>$2,227,000</td>
<td>$2,042,000</td>
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<tr>
<td>Lab and Control Building</td>
<td>$978,000</td>
<td>$978,000</td>
</tr>
<tr>
<td>Activated Sludge</td>
<td>$22,274,000</td>
<td>-</td>
</tr>
<tr>
<td>MBR</td>
<td>-</td>
<td>$28,172,000</td>
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<tr>
<td><strong>Construction Total</strong></td>
<td><strong>$32,099,000</strong></td>
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<tr>
<td><strong>Annual O&amp;M</strong></td>
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<td><strong>$938,000</strong></td>
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<tr>
<td><strong>20-Year Life Cycle</strong></td>
<td><strong>$49,568,000</strong></td>
<td><strong>$70,537,000</strong></td>
</tr>
</tbody>
</table>
**Phased Approach**

Build Conventional Activated Sludge (CAS) and add MBR component in the future, if necessary

**Pros:**
- Allows for immediate compliance with Board Order at a lower cost than other alternatives
- If discharge limits become more stringent in the future, the system can be upgraded
- Can delay building of system components to comply with Title 22 until needed (cloth filters and chlorination facilities)

**Cons:**
- Need new secondary clarifiers due to bottleneck
- Higher overall cost if MBR is needed later
Membrane Bioreactor (MBR)

**Pros:**
- Most resilient and reliable technology available
- Produces best water quality for future reuse or groundwater recharge
- Best choice if Reverse Osmosis (R.O.) is needed in the future
- Highly automated

**Cons:**
- Highest capital, O&M, and life cycle costs
Considerations

- When will the City actually see 3.6 MGD on average?
- When does the Regional Board Order compliance need to be constructed?
- When does the City plan to use recycled water for irrigation or recharge purposes? Beaumont Basin limit of 330 mg/L for TDS may require R.O.
- Would the City consider direct potable reuse?
- Do we expect to observe more stringent water quality requirements in the future?
Implementation Options

- Traditional Design-Bid-Build (DBB)
  - 3 years total project time

- Design-Build (DB)
  - Saves time and money
  - 2 years total project time

- Design-Build-Operate (DBO)
Financing Options

- Grants
- Development Impact Fees
- SRF Loan
- Public-Private Partnership (P3)
- Design-Build-Finance (DBF)
- Design-Build-Finance-Operate (DBFO)
• Questions?
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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

2/12/2019
SPECIAL MEETING

COUNCIL MEMBERS PRESENT: Council Member Happe
Council Member Peterson
Council Member Wallace
Mayor Pro tem Andrade
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Douglas Schulze, City Manager
Rochelle Clayton, Deputy City Manager
Kevin Ennis, City Attorney
Daryl Betancur, Deputy City Clerk
Tom Miller, Electric Utility Director
Heidi Mraz, Community Services Director
Maryann Marks, Interim Community Development Director
Art Vela, Public Works Director
Ted Shove, Economic Development Manager

1. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Welch on February 12, 2019, at 3:38 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

Mayor Welch opened the closed session items for public comments. Seeing none, the City Council adjourned to closed session at 3:40 p.m.

City Attorney Kevin Ennis read the closed session items into the record.

2. CLOSED SESSION

2.1 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Pursuant to paragraph (1) of subdivision (d) of Section 54956.9) Name of cases: Sierra Club v. City of Banning, Case RIC 1900544 and Golden State Environmental Justice Alliance v. City of Banning Case RIC 1900654. No reportable action.

2.2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Potential initiation of litigation pursuant to paragraph (4) of subdivision (d)
of Government Code Section 54956.9). Direction given to City Manager and City Attorney.

2.3 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Potential initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9. No reportable action.

2.4 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Pursuant to paragraph (1) of subdivision (d) of Section 54956.9) Name of case: City of Banning and People of the State of California v. Supreme Cannabis Club, Tony Macias, and Maria Dolores Macias, Case RIC 1821127. Status report was provided.

2.5 CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Government Code Section 54956.8): Property description: APN: 532-120-001, -002, -004, -005, -008 through -012, -019 & -020 located in the general vicinity of Ramsey Street and Hargrave Street. City Negotiator: Douglas Schulze, City Manager and Ted Shove, Economic Development Manager – Negotiating Parties: Fountain of Life Temple Church of God in Christ, Inc., Frank J. Burgess and Lorna Burgess, Burgess Family Trust, Frank J. Burgess, Humberto and Eulogia Ramirez, Family Trust, James Burgess Fall and Betty Lmai, Family Trust, Jen H. Huang, Krystal P. Cruz, Louis S. Lopez Trust, Raymond Ngoc and Lucy Nguyen Huynh Revocable Trust, the Shan Liang, Terra Firma Enterprises, LLC.; Under Negotiation: Price and Terms. Direction given to Mr. Schulze and Mr. Shove. No final action.


2.7. CONFERENCE WITH LABOR NEGOTIATORS- Pursuant to Government Code Section 54957.6 Agency Designated Representative: Doug Schulze, City Manager Unrepresented employee: Community Development Director Candidate. No reportable action.

Under Negotiation: Price and Terms. Direction given to Mr. Schulze and Mr. Shove.

The Meeting convened to closed session at 3:40 p.m. and reconvened to open session at 4:30 p.m.

3. **ADJOURNMENT**

   By consensus, the meeting adjourned at 4:30 p.m.

Minutes Prepared by:

____________________
Daryl Betancur, Deputy City Clerk
A regular meeting of the Banning City Council was called to order by Mayor Welch on February 12, 2019, at 5:04 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT:    Council Member Happe
                              Council Member Peterson
                              Council Member Wallace
                              Mayor Pro Tem Andrade
                              Mayor Welch

COUNCIL MEMBERS ABSENT:     None

OTHERS PRESENT            Doug Schulze, City Manager
                           Kevin Ennis, City Attorney
                           Rochelle Clayton, Deputy City Manager
                           Tim Chavez, Fire Battalion Chief
                           Vincent Avila, Interim Police Chief
                           Heidi Meraz, Community Services Director
                           Tom Miller, Electric Utility Director
                           MaryAnn Marks, Interim Community Development Director
                           Art Vela, Public Works Director/City Engineer
                           Ted Shove, Economic Development Manager
                           Marie A. Calderon, City Clerk
                           Daryl Betancur, Deputy City Clerk
                           Laurie Sampson, Executive Assistant
                           Leila Lopez, Office Specialist

1. CALL TO ORDER
   Mayor Welch called the regular meeting of the City Council to order at 5:04 p.m.

   The Invocation was given by Elder Jim Price, Church of Jesus Christ of Latter Day Saints.

   Councilmember Peterson led the Pledge of Allegiance.

   Roll call- All members present.

2. AGENDA APPROVAL

   A motion was made by Councilmember Wallace, seconded by Councilmember Happe to approve the agenda. Motion carried 5-0.
3. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS

City Manager Doug Schulze introduced newly hired Deputy City, Clerk Daryl Betancur.

Mr. Betancur stated he was looking forward to working with the community and with all city staff.

4. REPORT ON CLOSED SESSION

City Attorney Kevin G. Ennis reported out of closed session as follows:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Pursuant to paragraph (1) of subdivision (d) of Section 54956.9) Name of cases: Sierra Club v. City of Banning, Case RIC 1900544 and Golden State Environmental Justice Alliance v. City of Banning Case RIC 1900654. No reportable action.

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Potential initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9). Direction given to City Manager and City Attorney.

3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Potential initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9. No reportable action.

4. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Pursuant to paragraph (1) of subdivision (d) of Section 54956.9) Name of case: City of Banning and People of the State of California v. Supreme Cannabis Club, Tony Macias, and Maria Dolores Macias, Case RIC 1821127. Status report was provided.


6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8: Property description: APNs: 543-090-008, located in the general vicinity of Hathaway Street and Westward Avenue. City
7. CONFERENCE WITH LABOR NEGOTIATORS- Pursuant to Government Code Section 54957.6. **No reportable action.**

Agency Designated Representative: Doug Schulze, City Manager
Unrepresented employee: Community Development Director Candidate.


5. **PUBLIC COMMENTS (NON-AGENDA ITEMS)**

Mayor Welch opened Public Comment for items not on the Agenda.

Ellen Carr representing Tender Loving Critters made few announcements regarding low cost spay and neuter clinic events, and provided dates. She made brief comments about increasing City pay for the Police Department Dispatchers.

Inge Schuler, Banning resident, thanked Interim Community Development Director Maryann Marks for her excellent support of the Planning Commission; spoke in disagreement about the new agenda format and other technical requirements.

Bill Hobbs thanked Mayor Welch for the great performance as MC at the veteran’s expo; stated that he had enjoyed the presentation by Congressman Ruiz. Mr. Hobbs expressed contentment with the City Council; however, he stated that the City needs to change; that there needs to be more economic development to enable the city to thrive just like Beaumont; he thanked the City Manager for the recent event “Coffee with the City Manager” where he answered questions from members of the public.

6. **CORRESPONDENCE**

None

7. **APPOINTMENTS**

7.1 Parks & Recreation Commission Appointments

Nominations for Parks and Recreation Commissioners were made as follows:
A motion was made by Councilmember Peterson, seconded by Councilmember Happe to nominate Shelby Waldron for a seat on the Parks & Recreation Commission. Electronic vote was taken as follows.

AYES: Happe, Peterson, Andrade, & Welch
NOES: Wallace
ABSTAIN: None
ABSENT: None

A motion was made by Councilmember Wallace, seconded by Mayor Welch to nominate Leroy Miller for a seat on the Parks & Recreation Commission. Electronic vote was taken as follows.

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

A motion was made by Councilmember Peterson, seconded by Councilmember Wallace to nominate Arthur J. Cabral for a seat on the Parks & Recreation Commission. Electronic vote was taken as follows.

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

8. CONSENT ITEMS
A motion was made by Councilmember Peterson, seconded by Councilmember Wallace, to approve the consent calendar with the exception of item 8.5, which was pulled for a separate discussion by Councilmember Happe. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Public Comment:

Inge Schuler spoke in disagreement to page 47 of the minutes of the January 22, 2019 City Council meeting stating that the minutes as written did not accurately reflect her comments; and that her comments were “truncated”. Public written comments were submitted and made part of the record.
8.1 Approval of Minutes from the Following City Council Meetings:

January 22, 2019, Planning Commission Interviews
January 22, 2019, Special City Council Meeting
January 22, 2019 Regular City Council Meeting

Action: Approved by Minute Order No. 2019-020

8.2 Receive and File Contracts Approved under the City Manager’s Signature Authority for the Month of January 2019.

Action: Approved by Minute Order No. 2019-021

8.3 Adopt Resolution No. 2019-14, Accepting a Federal Surface Transportation Program (STP) Grant and Approving the Execution of California Department of Transportation (Caltrans) Program Supplemental Agreement No. 005-F to the Existing Administering Agency-State Master Agreement Including Related Documents for Project No. 2014-06, “Ramsey Street Pavement Rehabilitation, Hargrave Street to West of Hathaway Street.”

Action: Adopted Resolution No. 2019-14

8.4 Application for Authorization to Access State and Federal Level Summary Criminal History Information for Employment Including Volunteers and Contractors, and for Licensing or Certification Purposes for Cannabis Regulatory Permits.

Action: Adopted Resolution No. 2019-20

8.5 Adopt Resolution No. 2019-19, Approving and Accepting the Right-of-Way Dedication from APN# 541-181-032 and APN# 541-181-033 along Livingston Street for Road Purposes. (Pulled)

Councilmembers Happe and Peterson recused from voting on this item.

There was a brief discussion on this item with the consensus to table item to date uncertain.

Public Comment

Don Smith made comments related to the right-of-way.

A motion was made by Mayor Pro Tem Andrade to table item 8.5, seconded by Mayor Welch. Electronic vote was taken as follows:
AYES: Wallace, Andrade, & Welch
NOES: None
ABSTAIN: Happe & Peterson
ABSENT: None

Action: Tabled by Minute Order No. 2019-022

8.6 Adopt Resolution No. 2019-23, Approving an Agreement for the Purchase of Right-of-Way Dedication from Fountain of Life Temple of God in Christ, Inc. in an Amount Not-to-Exceed $20,560.

Action: Adopted Resolution No. 2019-23

8.7 Adopt Resolution No. 2019-22, Approving an Agreement for the Purchase of Right-of-Way Dedication from Krystal P. Cruz in an Amount Not-to-Exceed $17,100.

Action: Adopted Resolution No. 2019-22

9. ANNOUNCEMENTS & REPORTS

Mayor Pro Tem Andrade reported on having attended the WRCOG meeting in Riverside where two important issues were discussed; 1) the housing and transportation needs of populations; and 2) the fellowship program; she stated that she would report more on these items later.

Councilmember Happe, no report.

Mayor Welch reported on having attended the Mayor’s and City Manager’s meeting where significant policy issues were discussed on a number of topics including transportation, education, and public safety, which impact the cities of Banning, Beaumont and Calimesa.

Councilmember Peterson commented that he was opposed to the HERO and PACE programs, which the Western Riverside COG administers and asked his colleagues for a future status report on the lending practices by these two programs and the corresponding investigations relative to funding concerns and practices.

10. CITY COUNCIL COMMITTEE REPORTS

None

11. REPORT BY CITY ATTORNEY
City Attorney Kevin Ennis clarified two points that were discussed during the public comment portion of the meeting. The first issue had to do with the minutes, and how much information is included in the minutes. He stated that the rules state that the City Clerk provides an abbreviated record of the meeting proceedings.

He mentioned that minutes of the meeting do not need not be verbatim; thus, councilmember comments will not be included, but will be provided in summary format as best at the Clerk can. He stated that this rule also applies to public comments.

Second, on the issue of time limitations, he commented that there is a time limit on speaker comments; and that councilmembers were allowed to ask questions of the public, however, discussion of the merits of an item are neither appropriate nor allowed.

12. **REPORT BY CITY MANAGER**

City Manager Doug Schulze commented on several items, which included a brief statement about the minutes, which could be easily linked to the video; spoke about the Coffee with the City Manager event, which was successful and mentioned that about 70 residents from District 3 attended.

City Manager, Doug Schulze stated that he hoped to do more of these in the future; spoke briefly about the goal setting and strategic planning workshop planned for February 28; and provided a status report on the starting date of the new Chief of Police.

Mr. Schulze also provided two legislative alerts, one on AB213, and the other on HR530.

A brief discussion ensued relative to clarity on what these bills were intended to do with Mr. Schulze answering council’s questions.

12.1  Meeting Order and Start Times

City Manager Doug Schulze reported on a citizen request to alter the order of the meetings.

A lengthy discussion took place regarding the logistics of accommodating the reordering of the workshop and closed session meetings; Mayor Pro Tem Andrade requested consideration for the regular meeting to start at 6:00 p.m. in consideration of her work schedule.

Don Smith spoke in favor of reordering the agenda to make it more accessible to people to attend.

Direction was given to staff to move forward with reordering the starting times of the workshop and the closed session meetings.
12.2 Request to add AB213 and HR530 for discussion to agenda. (Add-on)

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Happe to add this item to the agenda. Motion carried unanimously.

Following a lengthy discussion on the merits of these legislative bills, the City Council authorized staff to send letters of support.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Happe to authorize staff to send letters of support on AB213 and HR530 as drafted. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

13. REPORTS OF OFFICERS

13.1 Adopt Resolution No. 2019-04, Approving Final Payment to Southern California Edison in the amount of $96,705.61 for the Relocation of Overhead Transmission Facilities related to the Mid-County Justice Center.

Deputy City Manager Rochelle Clayton presented the staff report.

There were no public comments.

A motion was made by Councilmember Peterson, seconded by Mayor Pro Tem Andrade to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Adopted Resolution No. 2019-04

13.2 Adopt Resolution No. 2019-15, Authorizing the City Manager to enter into a Software Services Agreement with OpenGov, Inc. for Cloud-Based Financial and Budgeting Subscription Solutions.

City Manager Doug Schulze presented the staff report.

There were no public comments.
A motion was made by Councilmember Peterson, seconded by Mayor Pro Tem Andrade to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Adopted Resolution No. 2019-15

13.3 Adopt Resolution No. 2019-16, Authorizing the Electric Utility Heavy Duty Trucks and Equipment Replacement Program and the Purchase of two Heavy Duty Trucks.

Electric Utility Operations Manager Jason Smith presented the staff report and answered Council’s questions.

There were no public comments.

A motion was made by Councilmember Peterson, seconded by Councilmember Wallace to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Adopted Resolution No. 2019-16

13.4 Adopt Resolution No. 2019-17, Approving a Task Order Engaging Black and Veatch Corporation to Complete a Resource Study not to exceed $50,000.

Electric Utility Director Tom Miller presented the staff report.

There were no public comments.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Happe, to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Adopted Resolution No. 2019-17
13.5 Adopt Resolution No. 2019-21, Authorizing the City Manager to enter into an Employment Agreement with Adam Rush for Community Development Director Services.

City Manager Doug Schulze presented the staff report.

There were no public comments.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Happe, to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Adopted Resolution No. 2019-21

Mayor Welch recessed the regular meeting of the Banning City Council and called to order a joint meeting of the Banning City Council, and Banning Utility Authority at 7:05 p.m.

1. CALL TO ORDER

Board Members, Happe, Peterson, Wallace, Vice Chairman Andrade and Chairman Welch. All members were present.

2. REPORTS OF OFFICERS

21 Adopt Resolution No. 219-02 UA, Approving an amendment to the Professional Services Contract for the Design of Well C-8 with Hazen and Sawyer of Palm Desert, CA. for $42,087.

Utility Director Tom Miller presented the staff report and answered Council’s questions.

Don Smith provided comment on this item.

A motion was made by Councilmember Peterson, seconded by Councilmember Happe, to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Mayor Welch adjourned the Utility Authority meeting and reconvene to the Regular City Council meeting at 7:18 p.m.

**ADJOURNMENT**

By consensus, the regular meeting was adjourned at 7:18 P.M.

Minutes Prepared by:

______________________________
Daryl Betancur, Deputy City Clerk

These Minutes reflect actions taken by the City Council. The entire discussion of this meeting can be found by visiting the following website: https://banninglive.viebit.com/player.php?hash=CnzIB0BOCu2L, or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.
TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Suzanne Cook, Deputy Finance Director
MEETING DATE: February 26, 2019
SUBJECT: Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of January 2019

RECOMMENDATION:
That City Council review and ratify the warrants for period ending January 31, 2019, per California Government Code Section 37208.

WARRANT SUMMARY:

<table>
<thead>
<tr>
<th>Description</th>
<th>Payment #</th>
<th>Amount</th>
<th>Total Amount</th>
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<tbody>
<tr>
<td>Checks:</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Checks Issued during Month</td>
<td>167455 - 167779</td>
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<td></td>
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<tr>
<td>Voided / Reissue Check</td>
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<td>$4,078.40</td>
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<tr>
<td>Check Total</td>
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<td>Wires Total</td>
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<td>ACH payments:</td>
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<tr>
<td>Payroll Direct Deposit 1/4/2019</td>
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<td>$347,190.01</td>
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<tr>
<td>Payroll Direct Deposit 1/18/2019</td>
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<td>$366,473.05</td>
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<tr>
<td>Other Payments</td>
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<td>$527,147.82</td>
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<tr>
<td>ACH Total</td>
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<td>$1,240,810.88</td>
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<tr>
<td>Payroll Checks:</td>
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<tr>
<td>Payroll - Regular 1/4/2019</td>
<td></td>
<td>$2,426.83</td>
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<tr>
<td>Payroll - Regular 1/18/2019</td>
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<td>$3,351.11</td>
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<tr>
<td>Manual Check 1/23/2019</td>
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<td>$2,782.65</td>
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<td>Payroll Check Total</td>
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<td>$8,560.59</td>
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<tr>
<td>Total Warrants Issued for January 2019</td>
<td></td>
<td>$4,391,163.49</td>
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</table>
ATTACHMENTS:

- Fund List
- Warrant List January 2019
- Warrant List Detail January 2019
- Voided Check Log – January 2019
- Payroll Log
- Payroll Registers

If you have any questions, please contact the Finance Department so that additional detailed information can be provided to you.

Approved by:

Douglas Schulze
City Manager
# City of Banning

## Fund/Department Legend

### 0001 General Fund Departments

<table>
<thead>
<tr>
<th>Code</th>
<th>Department</th>
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<tbody>
<tr>
<td>0001</td>
<td>General</td>
</tr>
<tr>
<td>1000</td>
<td>City Council</td>
</tr>
<tr>
<td>1200</td>
<td>City Manager</td>
</tr>
<tr>
<td>1210</td>
<td>Economic Development</td>
</tr>
<tr>
<td>1300</td>
<td>Human Resources</td>
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<tr>
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<td>City Clerk</td>
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<td>1500</td>
<td>Elections</td>
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<td>1800</td>
<td>City Attorney</td>
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<td>1890</td>
<td>Fiscal Services</td>
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<td>1910</td>
<td>Purchasing &amp; A/P</td>
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<td>2050</td>
<td>TV Government Access</td>
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<td>2200</td>
<td>Police</td>
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<tr>
<td>2210</td>
<td>Dispatch</td>
</tr>
<tr>
<td>2279</td>
<td>TASIN - SB621 (Police)</td>
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<td>Animal Control</td>
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<tr>
<td>2400</td>
<td>Fire</td>
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<tr>
<td>2479</td>
<td>TASIN - SB621 (Fire)</td>
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<tr>
<td>2700</td>
<td>Building Safety</td>
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<td>Code Enforcement</td>
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<td>2800</td>
<td>Planning</td>
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<td>3000</td>
<td>Engineering</td>
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<td>3200</td>
<td>Building Maintenance</td>
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<td>3600</td>
<td>Parks</td>
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<td>Recreation</td>
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<td>4010</td>
<td>Aquatics</td>
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<td>4050</td>
<td>Senior Center</td>
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<td>Sr. Center Advisory Board</td>
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<td>4500</td>
<td>Central Services</td>
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<td>4800</td>
<td>Debt Service</td>
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<td>5400</td>
<td>Community Enhancement</td>
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### Capital Improvement Funds

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<tr>
<td>400</td>
<td>Police Facilities Development</td>
</tr>
<tr>
<td>410</td>
<td>Fire Facilities Development</td>
</tr>
<tr>
<td>420</td>
<td>Traffic Control Facility Fund</td>
</tr>
<tr>
<td>421</td>
<td>Ramsay-Highland Home Road Signal</td>
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<tr>
<td>430</td>
<td>General Facilities Fund</td>
</tr>
<tr>
<td>441</td>
<td>Sunset Grade Separation Fund</td>
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<td>444</td>
<td>Wilson Median Fund</td>
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<td>451</td>
<td>Park Development Fund</td>
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<td>470</td>
<td>Capital Improvement Fund</td>
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<tr>
<td>475</td>
<td>Fair Oaks #2004-01 Assessment District</td>
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### Banning Utility Authority Funds

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<tr>
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<td>661</td>
<td>Water Capital Facilities</td>
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<td>663</td>
<td>BUA Water Capital Project Fund</td>
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<td>669</td>
<td>BUA Water Debt Service Fund</td>
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<tr>
<td>680</td>
<td>Wastewater Fund</td>
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<td>Wastewater Capital Facility Fund</td>
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<td>689</td>
<td>BUA Wastewater Capital Project Fund</td>
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<td>685</td>
<td>State Revolving Loan Fund</td>
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<td>689</td>
<td>BUA Wastewater Debt Service Fund</td>
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<td>692</td>
<td>Irrigation Water Fund</td>
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<td>682</td>
<td>Wastewater Tertiary</td>
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### Enterprise Funds

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<td>Airport Fund</td>
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<td>610</td>
<td>Transit Fund</td>
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<td>Transit</td>
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<td>5830</td>
<td>Dial-A-Ride</td>
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<td>690</td>
<td>Refuse Fund</td>
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<td>670</td>
<td>Electric Fund</td>
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<td>Electric</td>
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<td>7010</td>
<td>Generation &amp; Transmission</td>
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<tr>
<td>672</td>
<td>Rate Stability Fund</td>
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<tr>
<td>673</td>
<td>Electric Improvement Fund</td>
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<tr>
<td>674</td>
<td>'07 Electric Revenue Bond Project Fund</td>
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<td>675</td>
<td>Public Benefit Fund</td>
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<tr>
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<td>'07 Electric Revenue Bond Debt Service Fund</td>
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### Internal Service Funds

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<td>5020</td>
<td>Workers Compensation</td>
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<td>5030</td>
<td>Unemployment Insurance</td>
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<td>5040</td>
<td>Liability Insurance</td>
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<td>5300</td>
<td>City Attorney</td>
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<td>702</td>
<td>Fleet Maintenance</td>
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<td>703</td>
<td>Information Systems Services</td>
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<td>761</td>
<td>Utility Billing Administration</td>
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<td>3100</td>
<td>Account &amp; Collection Service</td>
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<td>3110</td>
<td>Meter Reading Service</td>
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### Successor Agency Funds

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<tr>
<td>805</td>
<td>Redevelopment Obligation Retirement Fund</td>
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<td>Successor Housing Agency</td>
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<td>830</td>
<td>Debt Service Fund</td>
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<td>840</td>
<td>Bond Expenditure Agreement (BEA) Project Fund</td>
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<tr>
<td>841</td>
<td>Bond Expenditure Agreement (BEA) LowMod Fund</td>
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<tr>
<td>850</td>
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Special Revenue Funds

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City of Banning
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City of Banning
Warrant List Detail January 2019

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City of Banning
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## City of Rancho

### Warrant List Detail January 2019

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**City of Banning**

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<td>60-6300-471.26-04</td>
<td>STREET SWEEPER SUPPLIES</td>
<td>128,50.00</td>
<td></td>
</tr>
<tr>
<td>9003681</td>
<td>1/12/2019</td>
<td>WELLS FARGO BANK</td>
<td>60-6300-471.26-04</td>
<td>60-6300-471.26-04</td>
<td>STREET SWEEPER SUPPLIES</td>
<td>128,50.00</td>
<td></td>
</tr>
<tr>
<td>9003682</td>
<td>1/12/2019</td>
<td>WELLS FARGO BANK</td>
<td>60-6300-471.26-04</td>
<td>60-6300-471.26-04</td>
<td>STREET SWEEPER SUPPLIES</td>
<td>128,50.00</td>
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</tr>
<tr>
<td>9003683</td>
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<td>60-6300-471.26-04</td>
<td>STREET SWEEPER SUPPLIES</td>
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<tr>
<td>9003684</td>
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<td>60-6300-471.26-04</td>
<td>STREET SWEEPER SUPPLIES</td>
<td>128,50.00</td>
<td></td>
</tr>
</tbody>
</table>

Grand Total: 4,389,163.49

Less Voided / Reissued Checks from Prior Period: (2,652.74)

Less Voided Checks Prior Period: (100.00)

Add Payroll Checks: 8,560.59

Total Remittance for Month: 4,391,163.49
## Voided Checks

### January 2019

<table>
<thead>
<tr>
<th>Date</th>
<th>Check</th>
<th>Vendor #</th>
<th>Reason</th>
<th>Amount</th>
<th>Check</th>
<th>Vendor #</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/3/2019</td>
<td>165862</td>
<td>3132</td>
<td>Unable to attend training - IOD</td>
<td>$12.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/3/2019</td>
<td>167285</td>
<td>7122</td>
<td>Training Cancelled</td>
<td>$24.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/10/2019</td>
<td>163260</td>
<td>5057</td>
<td>Stale dated check-Payroll to issue</td>
<td>$16.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/10/2019</td>
<td>163465</td>
<td>4444</td>
<td>Stale dated check-Payroll to issue</td>
<td>$16.00</td>
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<td></td>
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<tr>
<td>1/10/2019</td>
<td>163502</td>
<td>3204</td>
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<tr>
<td>1/17/2019</td>
<td>164379</td>
<td>4597</td>
<td>Stale dated check-Payroll to issue</td>
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<tr>
<td>1/24/2019</td>
<td>163975</td>
<td>939</td>
<td>Lost / Never received</td>
<td>$2,400.00</td>
<td>167876</td>
<td>939</td>
<td>$2,400.00</td>
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<tr>
<td>1/24/2019</td>
<td>166305</td>
<td>99001</td>
<td>Lost / Never received</td>
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<td>167879</td>
<td>99001</td>
<td>$252.74</td>
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<tr>
<td>1/24/2019</td>
<td>167484</td>
<td>99001</td>
<td>Erroneous Name on Check</td>
<td>$45.00</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>1/24/2019</td>
<td>167823</td>
<td>7082</td>
<td>Issued 2 separate checks</td>
<td>$1,219.24</td>
<td>167896</td>
<td>7082</td>
<td>$1,219.24</td>
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<tr>
<td>1/24/2019</td>
<td>167823</td>
<td>7082</td>
<td></td>
<td></td>
<td>167890</td>
<td>7082</td>
<td>$61.42</td>
</tr>
</tbody>
</table>

**TOTALS**

$4,078.40 $3,933.40
Payroll

January 2019

<table>
<thead>
<tr>
<th>Start</th>
<th>End</th>
<th>Date</th>
<th>Description</th>
<th>Check Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>11676</td>
<td>11684</td>
<td>1/4/2019</td>
<td>WARRANT REGISTER</td>
<td>$ 2,426.83</td>
</tr>
<tr>
<td>11685</td>
<td>11693</td>
<td>1/17/2019</td>
<td>WARRANT REGISTER</td>
<td>$ 3,351.11</td>
</tr>
<tr>
<td>11694</td>
<td>11694</td>
<td>1/23/2019</td>
<td>Manual Check</td>
<td>$ 2,782.65</td>
</tr>
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</table>

**TOTALS**                                    $ 8,560.59

19 CHECKS USED
<table>
<thead>
<tr>
<th>Dept/Div Activity</th>
<th>Check Payee</th>
<th>Social Security</th>
<th>Check Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>CALIF. STATE DISBURSEMENT UNIT</td>
<td>11676</td>
<td></td>
<td>484.15</td>
<td></td>
</tr>
<tr>
<td>CALIF. STATE DISBURSEMENT UNIT</td>
<td>11677</td>
<td></td>
<td>125.50</td>
<td></td>
</tr>
<tr>
<td>CALIF. STATE DISBURSEMENT UNIT</td>
<td>11678</td>
<td></td>
<td>180.46</td>
<td></td>
</tr>
<tr>
<td>CALIF. STATE DISBURSEMENT UNIT</td>
<td>11679</td>
<td></td>
<td>223.39</td>
<td></td>
</tr>
<tr>
<td>MCKETHAN, CYNTHIA L</td>
<td>11680</td>
<td></td>
<td>200.00</td>
<td></td>
</tr>
<tr>
<td>MCKETHAN, CYNTHIA L</td>
<td>11681</td>
<td></td>
<td>684.49</td>
<td></td>
</tr>
<tr>
<td>UNITED STATES TREASURY</td>
<td>11682</td>
<td></td>
<td>250.00</td>
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<tr>
<td>UNITED STATES TREASURY</td>
<td>11683</td>
<td></td>
<td>75.00</td>
<td></td>
</tr>
<tr>
<td>CALIF. STATE DISBURSEMENT UNIT</td>
<td>11684</td>
<td></td>
<td>193.84</td>
<td></td>
</tr>
</tbody>
</table>

Total Checks: 9, Amount: 2,426.83
<table>
<thead>
<tr>
<th>Dept/Div Activity</th>
<th>Payee</th>
<th>Social Security</th>
<th>Check Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>CALIF. STATE DISBURSEMENT UNIT</td>
<td>11685</td>
<td>484.15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>UNITED STATES TREASURY</td>
<td>11686</td>
<td>125.50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CALIF. STATE DISBURSEMENT UNIT</td>
<td>11687</td>
<td>180.46</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TRACY YOUNGBLOOD</td>
<td>11688</td>
<td>223.39</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FRANCHISE TAX BOARD</td>
<td>11689</td>
<td>200.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MCKETHAN, CYNTHIA L</td>
<td>11690</td>
<td>1,508.77</td>
<td></td>
<td></td>
</tr>
<tr>
<td>UNITED STATES TREASURY</td>
<td>11691</td>
<td>260.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FRANCHISE TAX BOARD</td>
<td>11692</td>
<td>75.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CALIF. STATE DISBURSEMENT UNIT</td>
<td>11693</td>
<td>193.84</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total Checks -**

9 3,351.11
CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Suzanne Cook, Deputy Finance Director

MEETING DATE: February 26, 2019

SUBJECT: Receive and File Cash, Investments and Reserve Report for the Month of January 2019

RECOMMENDATION:


CASH AND INVESTMENT SUMMARY:

<table>
<thead>
<tr>
<th>Description</th>
<th>Prior Month</th>
<th>Current Month</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Funds Under Control of the City</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash on Hand</td>
<td>$ 4,155.00</td>
<td>$ 4,155.00</td>
</tr>
<tr>
<td>Checking and Savings Accounts</td>
<td>$ 12,593,784.66</td>
<td>$ 14,326,207.98</td>
</tr>
<tr>
<td>Investments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LAIF</td>
<td>$ 40,885,682.30</td>
<td>$ 41,132,746.18</td>
</tr>
<tr>
<td>Brokerage</td>
<td>$ 26,567,373.17</td>
<td>$ 26,632,063.98</td>
</tr>
<tr>
<td><strong>Total Funds Under Control of the City</strong></td>
<td>$ 80,050,995.13</td>
<td>$ 82,095,173.14</td>
</tr>
<tr>
<td><strong>Funds Under Control of Fiscal Agents</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>US Bank</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restricted Bond Project Accounts</td>
<td>$ 15,194,776.85</td>
<td>$ 15,203,982.08</td>
</tr>
<tr>
<td>Restricted Bond Accounts</td>
<td>$ 5,669,439.53</td>
<td>$ 5,669,487.00</td>
</tr>
<tr>
<td>Union Bank</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restricted Funds</td>
<td>$ 789,054.56</td>
<td>$ 1,309,118.72</td>
</tr>
<tr>
<td><strong>Total Funds Under Control of Fiscal Agents</strong></td>
<td>$ 21,653,270.94</td>
<td>$ 22,182,587.80</td>
</tr>
<tr>
<td><strong>Total Funds</strong></td>
<td>$ 101,704,266.07</td>
<td>$ 104,277,760.94</td>
</tr>
</tbody>
</table>
RESTRICTED, ASSIGNED, COMMITTED AND RESERVED SUMMARY:

<table>
<thead>
<tr>
<th>Description</th>
<th>Prior Month</th>
<th>Current Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Funds</td>
<td>$ 101,704,266.07</td>
<td>$ 104,277,760.94</td>
</tr>
<tr>
<td>Restricted Funds</td>
<td>$ 40,047,970.60</td>
<td>$ 40,770,873.27</td>
</tr>
<tr>
<td>Assigned Funds - Specific Purpose</td>
<td>$ 8,684,911.34</td>
<td>$ 8,684,911.34</td>
</tr>
<tr>
<td>Committed Funds - Specific Purpose</td>
<td>$ 4,528,172.25</td>
<td>$ 4,528,172.25</td>
</tr>
<tr>
<td>Fund Balance Reserves</td>
<td>$ 15,077,173.95</td>
<td>$ 15,077,173.95</td>
</tr>
<tr>
<td><strong>Total Restricted, Assigned, Committed and Reserv</strong></td>
<td><strong>$ 68,338,228.14</strong></td>
<td><strong>$ 69,061,130.81</strong></td>
</tr>
<tr>
<td>Operating Cash - Unrestricted Reserves</td>
<td>$ 33,366,037.93</td>
<td>$ 35,216,630.13</td>
</tr>
<tr>
<td>Less Accounts held in Investments</td>
<td>$ 26,567,373.17</td>
<td>$ 26,632,063.98</td>
</tr>
<tr>
<td>Liquid Cash</td>
<td>$ 6,798,664.76</td>
<td>$ 8,584,566.15</td>
</tr>
</tbody>
</table>

ATTACHMENTS:

- Cash, Investment and Reserve Report January 2019
- Investment Report January 2019
- LAIF / PMIA Performance Report

If you have any questions, please contact the Finance Department so that additional detailed information can be provided to you.

Approved by:

Douglas Schulze
City Manager
# City of Banning
## Cash, Investment & Reserve Balances - January 31, 2019

### Cash & Investments

<table>
<thead>
<tr>
<th>Institution/Investment Type</th>
<th>December 2018</th>
<th>January 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Funds Under Control of the City:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Petty Cash / Cash on Hand</td>
<td>4,115.00</td>
<td>4,115.00</td>
</tr>
<tr>
<td>Checking and Savings:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wells Fargo - General Account - XX000507</td>
<td>12,236,052.64</td>
<td>12,303,144.11</td>
</tr>
<tr>
<td>Bank of America - Parking Citations - XX000030-877</td>
<td>67,387.02</td>
<td>74,469.17</td>
</tr>
<tr>
<td>Bank of America - Airport Visa - XX000050-765</td>
<td>212,755.76</td>
<td>216,074.65</td>
</tr>
<tr>
<td>Bank of America - CAG Charge Acct XX000005-594</td>
<td>83,027.07</td>
<td>85,456.55</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>12,593,764.69</strong></td>
<td><strong>14,326,207.88</strong></td>
</tr>
</tbody>
</table>

### State of California, Local Agency Investment Fund

<table>
<thead>
<tr>
<th>Institution/Investment Type</th>
<th>December 2018</th>
<th>January 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Banning - XX-XX0-050</td>
<td>43,885,662.07</td>
<td>41,132,456.18</td>
</tr>
<tr>
<td>Sponsor Agency - XX-XX0-021</td>
<td>0.23</td>
<td>0.23</td>
</tr>
<tr>
<td>% of Investment in LAP (Minimum 40% allowed per investment policy)</td>
<td>61%</td>
<td>61%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>43,885,662.07</strong></td>
<td><strong>41,132,456.18</strong></td>
</tr>
</tbody>
</table>

### US Bank

<table>
<thead>
<tr>
<th>Institution/Investment Type</th>
<th>December 2018</th>
<th>January 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Banning Custody Account XX000600</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Government Agencies:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>First American Government Fid CIO 318-481-001</td>
<td>2,004,863.11</td>
<td>2,199,553.98</td>
</tr>
<tr>
<td>Federal Home Loan Bk 313040009 Market Value $1,958,000 MatURITY 10/21/2018</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Federal Home Loan Bk 313040025 Market Value $2,965,860 MatURITY 09/22/2018</td>
<td>3,000,000.00</td>
<td>3,200,000.00</td>
</tr>
<tr>
<td>F H M A 315020049 Market Value $2,974,110 MatURITY 02/20/2019</td>
<td>3,000,000.00</td>
<td>3,200,000.00</td>
</tr>
<tr>
<td>F H M C T N 315485032 Market Value $2,939,360 MatURITY 09/27/2019</td>
<td>3,000,000.00</td>
<td>3,200,000.00</td>
</tr>
<tr>
<td>F H M C T N 3153154S03 Market Value $2,978,360 MatURITY 02/22/2020</td>
<td>3,000,000.00</td>
<td>3,200,000.00</td>
</tr>
<tr>
<td>Federal Home Loan Bk 313050005 Market Value $2,958,460 MatURITY 02/28/2021</td>
<td>2,976,420.00</td>
<td>2,976,420.00</td>
</tr>
<tr>
<td>F H M C T N 314035028 Market Value $2,001,280 MatURITY 12/28/2021</td>
<td>2,000,000.00</td>
<td>2,000,000.00</td>
</tr>
<tr>
<td>Federal Home Loan Bk 313040016 Market Value $4,550,045.50 MatURITY 02/28/2021</td>
<td>4,550,000.00</td>
<td>4,550,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24,567,372.17</strong></td>
<td><strong>26,632,043.08</strong></td>
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</tbody>
</table>

### Funds Under Control of Fiscal Agents:

<table>
<thead>
<tr>
<th>Institution/Investment Type</th>
<th>December 2018</th>
<th>January 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Funds Under Control of the City:</strong></td>
<td><strong>80,065,953.11</strong></td>
<td><strong>82,093,173.14</strong></td>
</tr>
</tbody>
</table>

### Available Fund Balance Reserves:

<table>
<thead>
<tr>
<th>Description</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric-Rate Stabilization Fund</td>
<td>$6,723,446.80</td>
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<tr>
<td>Electric Operational Fund</td>
<td>$3,961,723.30</td>
</tr>
<tr>
<td>BUA Water Fund</td>
<td>$1,197,664.30</td>
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<tr>
<td>BUA Wastewater Fund</td>
<td>$319,320.40</td>
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<tr>
<td>Self Insurance Fund</td>
<td>$500,000.00</td>
</tr>
<tr>
<td>Designated, Unreserved</td>
<td>-</td>
</tr>
<tr>
<td>Mining Tax Collected</td>
<td>$976,274.00</td>
</tr>
<tr>
<td>PEG Reserve</td>
<td>$133,104.35</td>
</tr>
<tr>
<td>Litigation Contingency</td>
<td>$179,180.00</td>
</tr>
<tr>
<td>Gas Tax &amp; Police Reward</td>
<td>$163,320.00</td>
</tr>
<tr>
<td>CalPERS Liability</td>
<td>$558,000.00</td>
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<tr>
<td>Compensated Absences</td>
<td>$954,669.00</td>
</tr>
</tbody>
</table>

### Operating Cash

<table>
<thead>
<tr>
<th>Description</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance Available for Daily Operations</td>
<td>$36,216,638.13</td>
</tr>
<tr>
<td>Less Amount held in Investments</td>
<td>$26,632,043.08</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$9,584,595.05</td>
</tr>
</tbody>
</table>

### Grand Total

<table>
<thead>
<tr>
<th>Description</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td><strong>93,277,719.04</strong></td>
</tr>
</tbody>
</table>

I hereby certify that the investment activity for this reporting period conforms with the investment policy adopted by the City of Banning’s City Council and the California Government Code Section 53601 (with the exception of funds held in LAP).

I also certify that there are adequate funds available to meet the City’s Budget.

Sincerely,

Suzanne Cook  
Deputy Finance Director/Interim ASO
<table>
<thead>
<tr>
<th>State of California, Local Agency Investment Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Banning</td>
</tr>
<tr>
<td>Successor Agency</td>
</tr>
<tr>
<td>US Bank - Broker Piper Jaffray</td>
</tr>
</tbody>
</table>

| Government Agencies                        |                 |           |           |           |           | $                 |          |          |          |      |
| First American Government Oblig Fd Cl D    | Cash Equivalent | 31840V401 | N/A       | N/A       | N/A       | 2,159,535.98     | 1.850   | 100.000   | 2,159,535.98 | 3.2%  |
| Federal Home Loan Bls                     | US Government issue | 313947G25 | AA+       | Aaa       | N/A       | 3,000,000.00     | 1.250   | 99.862    | 2,995,159.00 | 4.4%  |
| FNMA                                        | US Government issue | 31350GRF9 | AA+       | Aaa       | 7/26/2018    | 2,955,000.00     | 1.000   | 99.170    | 2,974,110.00 | 4.4%  |
| FHLMCMTN                                     | US Government issue | 3136CB52 | AA+       | Aaa       | 9/27/2019    | 3,000,000.00     | 1.510   | 99.313    | 2,976,390.00 | 4.4%  |
| FNMA MNT                                     | US Government issue | 3136BG83 | AA+       | Aaa       | 3/15/2019    | 3,000,000.00     | 1.620   | 98.932    | 2,987,860.00 | 4.4%  |
| Federal Home Loan Bls                     | US Government issue | 3136CPP2 | AA+       | Aaa       | 10/26/2020   | 3,000,000.00     | 1.720   | 98.671    | 2,990,130.00 | 4.4%  |
| FNMA MNT                                     | US Government issue | 3139H9VF9 | AA+       | Aaa       | 7/26/2018    | 2,957,420.00     | 2.260   | 99.155    | 2,985,450.00 | 4.4%  |
| Federal Home Loan Bls                     | US Government issue | 3134G0D58 | AA+       | Aaa       | 1/29/2021    | 2,000,000.00     | 2.800   | 100.064   | 2,001,230.00 | 3.0%  |
| Federal Home Loan Bls                     | US Government issue | 3130AE7B6 | AA+       | Aaa       | 9/20/2018    | 4,350,000.00     | 2.730   | 100.001   | 4,350,045.50 | 6.7%  |

| Total Investments                          |                 |           |           |           |           | $ 26,653,063.98  |          |          | 26,573,179.48 | 39.3% |

Prepared by: Suzanne Cook
Administrative Services Department / Finance
PMIA Performance Report  

<table>
<thead>
<tr>
<th>Date</th>
<th>Daily Yield</th>
<th>Quarter to Date Yield</th>
<th>Average Maturity (in days)</th>
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<td>01/24/19</td>
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<td>02/11/19</td>
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<td>2.36</td>
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<td>02/13/19</td>
<td>2.39</td>
<td>2.37</td>
<td>182</td>
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</table>

*Daily yield does not reflect capital gains or losses

View Prior Month Daily Rates

LAIF Performance Report  
Quarter Ending 12/31/18

- Apportionment Rate: 2.40
- Earnings Ratio: 0.00006573663340150
- Fair Value Factor: 0.990051127
- Daily: 2.32%
- Quarter to Date: 2.21%
- Average Life: 192

PMIA Average Monthly Effective Yields

- Jan 2019: 2.355
- Dec 2018: 2.291
- Nov 2018: 2.208

Pooled Money Investment Account Portfolio Composition  
01/31/19  
$93.1 billion

- Treasuries: 50.99%
- Agencies: 20.01%
- Certificates of Deposit/Bank Notes: 16.08%
- Loans: 7.09%
- Time Deposits: 4.92%

Percentages may not total 100%, due to rounding.

Based on data available as of 2/13/2019
CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Director of Public Works

MEETING DATE: February 26, 2019

SUBJECT: Public Works Capital Improvement Project Tracking List

RECOMMENDED ACTION:
This is informational only; receive and file report.

GOAL STATEMENT:
The purpose of presenting the attached Public Works Capital Improvement Project (CIP) Tracking List is to keep City Council and the public informed of the status of the various capital improvement projects that are currently managed by the Public Works Department.

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

FISCAL IMPACT:
None

ATTACHMENTS:
1. CIP Status List

Approved by:
Douglas Schulze
City Manager
ATTACHMENT 1
Public Works Department
CIP Tracking List
<table>
<thead>
<tr>
<th>Category</th>
<th>Project #</th>
<th>Project Name</th>
<th>Phase</th>
<th>Council Award Date</th>
<th>Project Initiation</th>
<th>% Complete</th>
<th>Tasks Completed</th>
<th>Current Costs</th>
<th>1 Month Scale Actual Costs</th>
<th>Future Tasks</th>
<th>Tentative Completion Date</th>
<th>Project Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Streets</td>
<td>2018-03</td>
<td>Jamestown/Ravenel Street Intersection Design</td>
<td>Design</td>
<td>10/15/2018</td>
<td>10/15/2018</td>
<td>95%</td>
<td>Planning, design, permitting, construction, and construction.</td>
<td>$70,000</td>
<td>3/1/19</td>
<td>75,000&lt;br&gt;Waiting for permit to complete design and construction.</td>
<td>3/1/19</td>
<td>$75,000</td>
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<td>Harbison/Ravenel Street Intersection Design</td>
<td>Design</td>
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<td>12/30/2018</td>
<td>95%</td>
<td>Design, planning, permitting, construction, and construction.</td>
<td>$254,512</td>
<td>3/1/19</td>
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<tr>
<td>Streets</td>
<td>A11-321462B</td>
<td>ATP by Design Pedestrian Safe Routes to School</td>
<td>Environmental and Design</td>
<td>5/23/2018</td>
<td>5/23/2018</td>
<td>95%</td>
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<td>Streets</td>
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<td>Construction</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>Hanover/Ravenel Street Intersection Design</td>
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<td>12/30/2018</td>
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<td>295,000&lt;br&gt;Waiting for permit to complete design and construction.</td>
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<td>Boulder Park Way Realignment Design</td>
<td>Design</td>
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<td>Streets</td>
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<td>2018-03</td>
<td>Leaves Park Multi Purpose Fields Design</td>
<td>Design</td>
<td>7/30/2017</td>
<td>8/23/2017</td>
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<td>Parks</td>
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<td>Leaves Park Multi Purpose Fields Design</td>
<td>Design</td>
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<td>8/23/2017</td>
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<td>$377,000</td>
<td>3/1/19</td>
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<td>Waste / Water Treatment / Water Reuse</td>
<td>2017-06</td>
<td>Landscape Maintenance District No.3</td>
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<td>2/28/2017</td>
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<td>Project Start Date</td>
<td>60% Design</td>
<td>60% Design</td>
<td>Task Completed</td>
<td>Future Tasks</td>
<td>Tentative Completion Date</td>
<td>Project Budget</td>
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<td>----------</td>
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<tr>
<td>Non-potable</td>
<td>Veh N° 1</td>
<td>Repl and Design</td>
<td>N/A - Pardee Project</td>
<td>6/1/2016</td>
<td>45%</td>
<td>Kickoff Meeting, Award of Contract for Rehabilitation and Well Development, Conceptual Design, Well Rehabilitation, Well Development, Capacity Testing, DRAFT Drawdown and Consent Rate Test/Capacity Recommendation</td>
<td>Survey, 60% Design Drawings, 50% Design Drawings</td>
<td>50% Design Drawings</td>
<td>100% PADE, Environmental, Construction Bid</td>
<td>5/32/20</td>
<td>300k Credits, TBD</td>
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<tr>
<td>Non-potable</td>
<td>Irrigation Pipelines Phase 2 Segments B, C, D, E, and F</td>
<td>Redevelopment</td>
<td>N/A - Pardee Project</td>
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<td>45%</td>
<td>Kickoff Meeting, Submittal Documentation Format to Caltrans, Final Design of Segment C (formerly Segment A due to new alignment)</td>
<td>Survey, 60% Design Drawings</td>
<td>50% Design Drawings</td>
<td>100% PADE, Construction Bid</td>
<td>5/32/20</td>
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<tr>
<td>Non-potable</td>
<td>Non-potable Reservoir at WWTP</td>
<td>Design</td>
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<td>15%</td>
<td>Refer to Reservoir String Calculations</td>
<td>60% Design Drawings</td>
<td>60% Design Drawings</td>
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<tr>
<td>Non-potable</td>
<td>Reclaimed Water Booster Station at WWTP</td>
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<td>6/1/2016</td>
<td>50%</td>
<td>Kickoff Meeting, Conceptual Design, Verification of Lodi Park peak demands</td>
<td>Preliminary Design</td>
<td>30% Design Drawings</td>
<td>60% Design Drawings</td>
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<td>5/32/20</td>
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<tr>
<td>Non-potable</td>
<td>Booster Station on Lincoln</td>
<td>Design</td>
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<td>50% Design Drawings</td>
<td>60% Design Drawings</td>
<td>100% PADE, Environmental, Construction Bid</td>
<td>5/32/20</td>
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<td>Non-potable</td>
<td>NON-potable</td>
<td>Design</td>
<td>N/A - Pardee Project</td>
<td>6/1/2016</td>
<td>50%</td>
<td>Kickoff Meeting, Conceptual Design, Verification of Lodi Park peak demands</td>
<td>Required Capacity Analysis, Preliminary Design</td>
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<td>50% Design Drawings</td>
<td>100% PADE, Environmental, Construction Bid</td>
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<td>Water/Non-potable</td>
<td>Oak Valley Interceptor Building</td>
<td>Design</td>
<td>N/A - Pardee Project</td>
<td>6/1/2016</td>
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<td>Preliminary Design</td>
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<td>6/30/20</td>
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<td>Water</td>
<td>Eastley West Reservoir</td>
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<td>Kickoff Meeting</td>
<td>Reservoir String &amp; Configuration, Schedules</td>
<td>Conceptual Design</td>
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<td>Water/Non-potable</td>
<td>Ramona Lift Station</td>
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<td>Site Acquisition</td>
<td>Phase I (5A, Site Acquisition)</td>
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<td>Water/Non-potable</td>
<td>Atwater Creek sewer trunk mains and Force Main</td>
<td>Design</td>
<td>N/A - Pardee Project</td>
<td>6/1/2016</td>
<td>35%</td>
<td>Kickoff Meeting, Sewer Flow Modelling</td>
<td>CCTV Video Inspection, 90% Design, 100% Design</td>
<td>Video Inspection Report and Conditions Assessment</td>
<td>Identification of Existing Interconnections, Loads, and Capacity Including; Preliminary Design for New Sewer Trunk Mains, Force Main; 60% Design; 90% Design, 100% PADE, Environmental, Construction Bid</td>
<td>12/21/20</td>
<td>300k Credits, TBD</td>
<td></td>
</tr>
</tbody>
</table>
TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Lt. Vincent Avila
MEETING DATE: February 26, 2019
SUBJECT: Police Department Statistics for January 2019

RECOMMENDED ACTION:
This is an informational item and no Council action is required.

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

JUSTIFICATION:
N/A

FISCAL IMPACT:
None

OPTIONS:
1. Approve as recommended

ATTACHMENTS:
1. Statistics for November 2018

Approved by:

[Signature]
Douglas Schulze
City Manager
ATTACHMENT 1
January 2019 Statistics
# BANNING POLICE DEPARTMENT
## JANUARY, 2019

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<th>CRIME</th>
<th>Jan-19</th>
<th>Jan-18</th>
<th>% CHGE</th>
<th>YTD-19</th>
<th>YTD-18</th>
<th>% CHGE</th>
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<td><strong>PART I CRIMES</strong></td>
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<tr>
<td>Homicide</td>
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<td>1</td>
<td>-100%</td>
<td>0</td>
<td>1</td>
<td>-100%</td>
</tr>
<tr>
<td>Rape</td>
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<td>3</td>
<td>-100%</td>
<td>0</td>
<td>2</td>
<td>-100%</td>
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<td>Robbery</td>
<td>3</td>
<td>3</td>
<td>0%</td>
<td>3</td>
<td>0</td>
<td>300%</td>
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<tr>
<td>Assaults Agg/Simp</td>
<td>16</td>
<td>22</td>
<td>-27%</td>
<td>16</td>
<td>29</td>
<td>-45%</td>
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<td>Burglary</td>
<td>18</td>
<td>17</td>
<td>6%</td>
<td>18</td>
<td>30</td>
<td>-40%</td>
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<td>Vehicle Theft</td>
<td>19</td>
<td>15</td>
<td>27%</td>
<td>19</td>
<td>19</td>
<td>0%</td>
</tr>
<tr>
<td>Larceny</td>
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<td>13</td>
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<td>-15%</td>
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</table>
TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Art Vela, Director of Public Works
MEETING DATE: February 26, 2019

RECOMMENDED ACTION:
That the City Council adopt Resolution No. 2019-XX, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2019/2020 in order to prepare for the assessments of the area.

BACKGROUND:
In accordance with the “Landscaping and Lighting Act of 1972” (“1972 Act”) of the Streets and Highways Code, the City Council adopted a resolution on August 14, 1990 ordering the formation of Landscape Maintenance District (LMD) No. 1, (“the District”) the boundaries of which are shown in Attachment “2”. An additional five tracts and three tentative tracts were annexed (Annexation No. 1) into LMD No. 1 when the City Council approved Resolution No. 2005-36 on May 10, 2005. The District, by special benefit assessments, provides funding for the servicing and maintenance of certain landscape areas within the City of Banning, all of which are located in the public right-of-way. The 1972 Act requires that assessments are to be levied according to benefit rather than according to assessed value. Resolution No. 2019-XX will initiate the proceedings to update the District for Fiscal Year 2019/2020. A tentative schedule for updating the District, as required by the “Landscaping and Lighting Act of 1972,” is attached hereto as Attachment “3” for your information.

Resolution No. 2019-XX
JUSTIFICATION:

The City Council approved the formation of Landscape Maintenance District No. 1 by adopting Resolution No. 1990-59 on August 14, 1990. The adoption of Resolution No. 2019-XX will enable the City Engineer to prepare for the assessment for Fiscal Year 2019/2020.

FISCAL IMPACT:

Not applicable. A detailed estimate will be prepared and forwarded with the Engineer's Report.

ALTERNATIVE:

Do not approve Resolution 2019-XX, which would result in staff not initiating the process of assessing the homeowners and properties within LMD No. 1 a fee to pay for maintenance and servicing costs. Expenses funded by the fee currently include the LMD contractor, utility costs (water and electric), miscellaneous costs (design improvements, irrigation repair, flower and tree replacement, shrubs, etc.), and minor incidentals. Without an assessment, other funding sources would have to be utilized to pay for the expenses related to the operation and maintenance of LMD No.1.

ATTACHMENTS:

1. Resolution 2019-XX
2. LMD No. 1 Map for FY 2019/20
3. Tentative Schedule for Updating LMD No. 1

Approved by:

[Signature]

Douglas Schulze
City Manager
RESOLUTION NO. 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, INITIATING PROCEEDINGS TO UPDATE LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR THE FISCAL YEAR 2019/2020, PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972

WHEREAS, the City Council, pursuant to the provisions of the "Landscaping and Lighting Act of 1972," Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500, desires to initiate proceedings to update the City of Banning's Landscape Maintenance District No. 1, and to levy and collect annual assessments to pay for the operation, maintenance and servicing of landscaping and all appurtenant facilities related thereto.

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

SECTION 1. The City Council desires to update Landscape Maintenance District No. 1 for Fiscal Year 2019/2020, pursuant to the "Landscaping and Lighting Act of 1972" (Section 22500 and following, Streets and Highways Code) for the purpose of the following improvements:

Maintaining and servicing street trees, parkways, median islands, perimeter strips and backup walls, side slopes adjacent to sidewalks and storm drains, open space areas, flood detention or retention basins, and the irrigation of the above improvements.

SECTION 2. The City Council hereby directs the City Engineer to prepare and file with the City Clerk an Engineer's Report in accordance with Article 4 of Chapter 1 of the "Landscaping and Lighting Act of 1972."

SECTION 3. The fee to be assessed will not exceed the reasonable cost of providing the service. The fee charged shall be based on the rate and methodology set forth in Resolution Nos. 1990-59 and 2005-36.

SECTION 4. The Mayor shall sign this resolution and the City Clerk shall attest and certify to the passage and adoption thereof.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.
PASSED, ADOPTED AND APPROVED this 26th day of February, 2019.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

Daryl A. Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Kevin Ennis, Interim City Attorney
Jenkins & Hogin, LLC.
CERTIFICATION:

I, Daryl A. Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2019-XX was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 26th day of February, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Daryl A. Betancur, Deputy City Clerk
City of Banning, California
ATTACHMENT 2
Landscape Maintenance District No. 1 Map for Fiscal Year 2019/2020
## ATTACHMENT 3
(Tentative Schedule for Updating Landscape Maintenance District No. 1)

<table>
<thead>
<tr>
<th>Item</th>
<th>Council Meeting</th>
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<tr>
<td>Resolution Initiating Update</td>
<td>February 26, 2019</td>
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<tr>
<td>Resolution of Intention (Approving Engineer's Report)</td>
<td>April 23, 2019</td>
</tr>
<tr>
<td>Resolution Confirming Assessment (Public Hearing)</td>
<td>May 28, 2019</td>
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TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Ted Shove, Economic Development Manager

MEETING DATE: February 26, 2019

SUBJECT: Adopt Resolution No. 2019-XX, Approving Termination and Release of Liens in Favor of Cash Deposit for Construction of Public Improvements

RECOMMENDED ACTION:

That the City Council Adopt Resolution No. 2019-XX:

1. Approve the Termination and Release of Liens in Favor of Cash Deposit for Construction of Public Improvements (APNs 540-230-017 and -018);

2. Authorize the City Manager to execute Termination and Release of Lien for APN 540-230-018 in favor of a Cash Deposit in the amount of $9,200; and

3. Authorize the City Manager to execute Termination and Release of Lien for APN 540-230-017 in favor of a Cash Deposit in the amount of $7,400; and

4. Authorize the Administrative Services Director to receive Cash Deposit for $16,600 and to release the Cash Deposit only upon verification of public improvements by the City Engineer.

BACKGROUND:

On or about the year of 1979, the late property owners (Ferenc and Marcia Szeczy) secured permits and initiated construction of a large building located at 1356 W. Lincoln Street, APNs: 540-230-017 and -018, known as the "Site" [Attachment 6]. Construction never completed and subsequent liens were placed on both APNs for public right-of-way
improvements, by the City. The liens were recorded against the property and referenced as:

- Lien Contract for Improvements in Public Right of Way, recorded on July 23, 1979 as Document No. 154054 in the Official Records of Riverside County, CA (APN 540-230-018) [Attachment 5]

- Lien Contract for Improvements in Public Right of Way, recorded on January 24, 1980 as Document No. 15992 in the Official Records of Riverside County, CA (APN 540-230-017) [Attachment 5]

The property has remained unfinished and was the subject of a court action, (Proposed) Permanent Injunction, “Injunction”, which was recorded on March 13, 2008 as Instrument No. 2008-124006, in the Official Records of Riverside County, CA [Attachment 5]. The Injunction provides for specific requirements to list and sell the property (by the current owner). At close of escrow, the new owner is required to either secure a “Certificate of Occupancy” or demolish the existing improvements within prescribed timelines. The Injunction also provides the court the ability to sanction the property owner in the form of monetary damage for non-compliance.

Historically, the property has been listed for the past several years, with little interest and no accepted offers. In November 2018, an offer was accepted and is currently in escrow. Upon review of the title report for both parcels that make up the Site, the Buyer and Seller have agreed to provide a “Cash Deposit” [Attachment 2] in the amount equal to the public right-of-way improvements. Section 5 of the Lien Contract for Improvements provides for a cash bond or surety performance bond to be accepted, subject to City Engineer verifying actual costs. The amounts of $9,200 (APN 540-230-018) and $7,400 (APN 540-230-017), totaling $16,600 reflect the current estimated amounts to complete the improvements described in the Lien Contracts. The Cash Deposit will be held by the City until such time that the public improvements have been completed and verified by the City Engineer. After the completion of the improvements, the City reserves the right to hold back 10% of the Cash Deposit for one year to warrant the improvements. The 10% hold for one year is a standard practice for reducing performance bond amounts to free up capital capacity for the property owner.

The Buyer is seeking to acquire this site for construction a new pallet manufacturing and repair facility. A Pre-Application Conference was conducted with the Buyer in November 2018, before entering into escrow.

Staff is requesting approval of the “Termination and Release of Lien” and Improvements Security Agreement – Cash Deposit in order for the transaction to close, and to promote new business development. Release of the lien documents are required by the primary lender. Should the Council not approve this item; the property will not close escrow.
FISCAL IMPACT:

None.

ATTACHMENTS:

1. Resolution 2019-XX
2. Improvement Security Agreement - Cash Deposit
3. Termination and Release of Lien (APN 540-230-018)
4. Termination and Release of Lien (APN 540-230-017)
5. Excerpts from the Title Report – APNs 540-230-017 and -018 (Dated November 26, 2018)
6. Aerial Map

Approved by:

[Signature]

Douglas Schulze
City Manager
RESOLUTION NO. 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING TERMINATION AND RELEASE OF LIENS IN FAVOR OF CASH DEPOSIT FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS

WHEREAS, the property owners of 1356 W. Lincoln Street (Ferenc and Marcia Szecsy) partially completed the construction of a building on two parcels (APNs 540-230-017 and 540-230-018), "Site"; and

WHEREAS, public right of way improvements were never completed and the City entered into a Lien Contract for Improvements in Public Right-Of-Way for each parcel and were recorded on July 23, 1979 as Document No. 154054 in the Official Records of Riverside County, CA (APN 540-230-018) and on January 24, 1980 as Document No. 15992 in the Official Records of Riverside County, CA (APN 540-230-017); and

WHEREAS, the Site remained vacant and unfinished for a number of years and the property owners have passed away; and

WHEREAS, the Successor Trustee of the Family 2009 Trust u/d/t March 18, 2009 has listed the property for sale and secured a potential buyer; and

WHEREAS, in order to close escrow and transfer ownership, the public right-of-way improvements must be completed or a bond must be pledged until the improvements can be completed; and

WHEREAS, the new buyer has proposed a Cash Deposit for the full amount of the public improvements ($16,600), and that deposit to be held by the City and released upon completion of public right-of-way improvements and verified by the City Engineer; and

WHEREAS, the release of the Liens in exchange for a surety performance or cash bond is authorized under Section 5 of the Lien Contract for Improvements in Public Right-of-way; and

WHEREAS, the release of the Liens will create a marketable title that promotes new business development by removing impediments to real property transactions and new construction of commercial facilities that create jobs; and

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


SECTION 2. The City Manager is authorized to execute Termination and Release of Lien Agreements for APNs 540-230-017 and 540-230-018.
SECTION 3. The Administrative Services Director is authorized to receive the Cash Deposit and to release the funds only upon verification of completion of public improvements, by the City Engineer.

SECTION 3. The Administrative Services Director is authorized to retain ten percent of the Cash Deposit for a period of one year following completion of public improvements and verified by the City Engineer.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 25th day of September, 2018.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-XX, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2019, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Daryl Betancur, Deputy City Clerk
City of Banning, California
ATTACHMENT 2
Improvement Security Agreement-Cash Deposit
IMPROVEMENT SECURITY AGREEMENT
CASH DEPOSIT

This Improvement Security Agreement ("Agreement") is dated February ____, 2019, and is entered into by and between the CITY OF BANNING, a California municipal corporation ("City"), and XTREME PALLETs, INC., a California corporation ("Owner").

RECITALS

A. City entered into that certain "Lien Contract for Improvements in public Right of Way" for APN 640-230-018 which is being acquired by Owner, which was recorded on July 23, 1979 as Document No. 154054 in the Official Records of Riverside County, California, and another "Lien Contract for Improvements in Public Right of Way" for APN 540-230-017 which is also being acquired by Owner, which was recorded on January 24, 1980 as Document No. 15992 in such Official Records (the "Lien Contracts").

B. The Lien Contracts create liens in favor of the City to secure certain right of way improvement obligations of Owner, and provide that the liens may be replaced with bonds, but Owner has requested that City accept cash collateral instead (in the amounts of $9,200 for APN 620-230-018, and $7,400 for APN 540-230-017), and City has agreed to accept such cash collateral in lieu of bonds (and to terminated the liens of record) provided Owner executes and delivers this Agreement and provides the cash collateral deposits by March 15, 2019.

NOW THEREFORE, it is agreed by and between the parties, in order to secure the obligations of Owner under the Lien Contracts and give assurance to the City that the improvements described will be made in accordance with the Lien Contracts, that:

1. On or before March 15, 2019, Owner shall deposit with City the sums of $9,200 for the Lien Contract for APN 620-230-018 and $7,400 for the Lien Contract for APN 540-230-017 ("Improvement Security").

2. Owner hereby grants a security interest in the Improvement Security to secure the obligations of Owner with the Lien Contracts to which each cash deposit relates (each deposit applying separately to the Lien Contract to which it relates).

3. Upon timely completion of the applicable work required by a Lien Contract, City shall release the applicable unapplied cash deposit to Owner; provided, however that if City elects to perform such work, City may apply the applicable deposit to City's costs in completing the work (including engineering costs) and then deliver the balance (if any) to Owner.

4. Owner acknowledges that upon Owner's acquisition of APNs 640-230-017 and 018, Owner shall be bound by the Lien Contracts, as amended/supplemented by this Agreement and two Termination of Lien documents being approved and
executed by the City and recorded upon such acquisition (after the delivery of this Agreement).

**OWNER** (signature must be acknowledged):

XTREME PALLETAS, INC.,
a California corporation

By: ______________________________________
Print Name: ______________________________
Title: ____________________________________

**CITY:**

CITY OF BANNING

________________________________________
Douglas Schulze, City Manager

**ATTEST:**

________________________________________
Daryl Betancur, Deputy City Clerk
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 ____________________, before me, ____________________________, (insert name and title of the officer), 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)
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 ________________________, before me, ________________________, (insert name and title of the officer)
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)
ATTACHMENT 3
Termination and Release of Lien
(APN 540-230-018)
RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Attn: Ted Shove
APN: 540-230-018

The undersigned declare that this Termination and Release of Lien is exempt from Recording Fees pursuant to California Government Code Section 27383.

TERMINATION AND RELEASE OF LIEN
(APN 540-230-018)

THIS TERMINATION AND RELEASE OF LIEN (this "Termination") is dated as of __________, 2019, and is executed by the CITY OF BANNING, a California municipal corporation ("City").

RECITALS

A. Ferenc Szeczy and Marcia Szeczy executed a Lien Contract for Improvements in Public Right of Way in favor of the City, which was recorded on July 23, 1979 as Document No. 154054 in the Official Records of Riverside County, California (the "Lien Contract").

B. Section 3 of the Lien Contract granted City a lien ("Lien") on the real property described in the Lien Contract to secure the performance of certain public improvements, including related engineering costs.

C. Said real property is currently owned by Kathy Lampert, as Successor Trustee of the Szeczy Family 2009 Trust u/d/t March 18, 2009, who desires to sell the real property.

D. Section 5 of the Lien Contract permits the lien to be replaced with certain bonds, and provides for the release of the lien by City upon City's receipt of acceptable bonds; however, the City has approved a cash collateral deposit of $9,200 in lieu of the bonds.

E. City has received the acceptable said cash deposit as collateral to secure the improvement obligations and costs, and desires to terminate and release the lien.
TERMINATION

The Lien and Section 5 of the Lien Contract are hereby terminated, and the Lien is hereby “released”, all as of the date of recordation hereof.
IN WITNESS WHEREOF, the City has executed this Termination as of the date and year first above written.

CITY:                      CITY OF BANNING

By: ______________________
   Douglas Schulze, City Manager

ATTEST:                  APPROVED AS TO FORM:

__________________________
Daryl Betancur, Deputy City Clerk

__________________________
Kevin G. Ennis, City Attorney
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, __________________________, 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)
ATTACHMENT 4
Termination and Release of Lien
(APN 540-230-017)
The undersigned declare that this Termination and Release of Lien is exempt from Recording Fees pursuant to California Government Code Section 27383.

**TERMINATION AND RELEASE OF LIEN**
(APN 540-230-017)

THIS TERMINATION AND RELEASE OF LIEN (this "Termination") is dated as of ______________, 2019, and is executed by the CITY OF BANNING, a California municipal corporation ("City").

**RECITALS**

A. Ferenc Szeczy and Marcia Szeczy executed a Lien Contract for Improvements in Public Right of Way in favor of the City, which was recorded on January 24, 1980 as Document No. 15992 in the Official Records of Riverside County, California (the "Lien Contract").

B. Section 3 of the Lien Contract granted City a lien ("Lien") on the real property described in the Lien Contract to secure the performance of certain public improvements, including related engineering costs.

C. Said real property is currently owned by Kathy Lampert, as Successor Trustee of the Szeczy Family 2009 Trust u/d/t March 18, 2009, who desires to sell the real property.

D. Section 5 of the Lien Contract permits the Lien to be replaced with certain bonds, and provides for the release of the Lien by City upon City’s receipt of acceptable bonds; however, the City has approved a cash deposit of $7,400 in lieu of the bonds.

E. City has received said cash deposit as collateral to secure the improvement obligations and costs, and desires to terminate and release the Lien.
TERMINATION

The Lien and Section 5 of the Lien Contract are hereby terminated, and the lien is hereby “released”, all as of the date of recordation hereof.

IN WITNESS WHEREOF, the City has executed this Termination as of the date and year first above written.

CITY:  

CITY OF BANNING

By: ____________________________
Douglas Schulze, City Manager

ATTEST:

APPROVED AS TO FORM:

Daryl Betancur, Deputy City Clerk  
Kevin G. Ennis, City Attorney
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,

__________________________, (insert name and title of the officer)
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)
ATTACHMENT 5
Excerpts from the Title Report
APN 540-230-017 and -018
Dated November 26, 2018
LIEN CONTRACT FOR IMPROVEMENTS
IN PUBLIC RIGHT-OF-WAY

THIS AGREEMENT entered into by and between the CITY OF BANNING, a municipal corporation of the State of California, sometimes hereinafter referred to as "City," and Ferenc Steczky and Marta Steczky, sometimes hereinafter referred to as "Property Owner".

MERSAS, Property Owner has applied to City for a LLA 79-6 for the real property hereinafter described, now under Property Owner's ownership; and

MERSAS, it has been determined and found that said property is not suitable for said LLA 79-6 in its present condition; however, said property would be suitable for said LLA 79-6 if certain improvements herein described will be constructed and certain irrevocable offers of dedication are made to City; and

MERSAS, or licenses of the City require improvements and dedications as a condition of LLA 79-6; and

MERSAS, it has been determined to be in the public interest to temporarily postpone the construction of said improvements; and

MERSAS, Property Owner has requested said LLA 79-6 be granted by City in advance of the time said improvements are to be made.

NOW, THEREFORE, IT IS AGREED between the parties hereto as follows;

Section 1. That the City agrees to record the irrevocable offers of dedication made by the Property Owner.

Section 2. That the Property Owner, in lieu of making the improvements specified herein before said LLA 79-6 is granted, agree to install and construct, or cause to be installed or constructed, the improvements herein set forth in accordance with plans and specifications approved by the City Engineer within 60 days after written demand so to do by City. The Property Owner shall no be required to make said improvements before July 31, 1981, or within such further period of time as is granted by City; provided, however, that upon the happening of either of the following occurrences said improvements may, at the sole election of the City, be required to be made sooner than said July 31, 1981, or such extended period of time which may have been granted by City.

(a) When the City Council finds that the owners of 40% or more of the frontage, including the frontage of the Property Owner, between intersecting streets on both sides of the street upon which the property herein described has frontage, have agreed with the City to install or have already installed street and/or utility installations.
(b) Cont.

described herein, have petitioned the City to form an improvement district for the improvement of said streets and/or utility installations.

Said improvements shall be made without cost or expense to the City. City estimates that the cost of engineering and construction of said improvements at the time of entering this contract is $2,254.00. Property Owner hereby grants to City a lien upon the herein described property in the amount of $2,254.00, plus any future advances in excess of this sum resulting from increased engineering and construction costs, and in the event the Property Owner, his successors, heirs, assigns, or transferees fail to install or construct said improvements in the manner and within the time specified herein, he agrees that the City may do any or all of the following:

(a) Have the necessary engineering for said improvements done and install and construct said improvements by contract or otherwise. City or its contractor and his employees may enter upon any portion or part of the property reasonably necessary for said engineering and construction, and the entire cost and expense shall be charged against said property and payable by said Property Owner, his successors, heirs, assigns, or transferees, immediately upon completion of said improvements. In the event same is not paid within 30 days from completing City may foreclose said lien, as provided by law for the foreclosure of mortgages.

(b) Direct the City Engineer to estimate the cost of necessary engineering, and the work required to install and construct said improvements, and foreclose said lien in said amount.

c) Pursue any remedy, legal or equitable (including those specifically referred to herein), for the foreclosure of a lien, and the Property Owner, his successors, heirs, assigns, and transferees, shall be liable for reasonable attorney's fees as a cost in said proceedings.

Section 4. That it is agreed that anything herein contained to the contrary notwithstanding, the promises and covenants made herein shall not be binding upon the holders, mortgagees, or beneficiaries of any purchase money mortgage or purchase money deed of trust, for which the same has been or may in the future be executed by the Property Owner, his successors, heirs, assigns, or transferees, and the lien hereby created shall be and is hereby subordinated to and declared to be inferior and subsequent in lien to the lien of any such purchase money mortgage or purchase money deed of trust. The lien hereby created shall likewise be of no force or effect against any owner whose title to the property hereinafter described is acquired by or as a result of a foreclosure or trustee's sale of any such purchase money mortgage or purchase money deed of trust.

Section 5. That at any time during the period herein provided, the Property Owner, his successors, heirs, assigns, or transferees, may deposit a cash bond or post a surety bond satisfactory to the City to secure said lien with the cost of said improvements; the amount of bond to be the estimated cost of engineering and improvements at the time of such deposit or posting as ascertained by the City Engineer, and that upon deposit of said cash or posting of said bond the City agrees to release to enable a record of the property to be released from the lien herein imposed.

Section 6. Said City shall not, nor shall any officer or employee thereof, be liable or responsible for any accident, loss or damage happening or occurring to the work or improvements specified in this agreement prior to the completion and acceptance of the same, nor shall said City, nor any officer or employee thereof, be liable for any persons or property injured by reason of said work or improvements, but all of said liabilities shall be assumed by said Property Owner, and his successors, heirs, assigns, and transferees, and they shall save the City harmless from, and indemnity the City against, any and all claims, suits and liabilities of or to any persons or property injured or otherwise injured as a result of said work or improvements. Said Property Owner, and his successors, heirs, assigns, and transferees, further agrees to protect said City and the officers and the employees thereof from all liability or claim because of, or arising out of, the use of any patent or potential article in the construction of said improvement.
Section 7. It is further agreed that said Property Owner will, at all times up to the completion and acceptance of said work and improvements by the City, give good and adequate warning to the traveling public of any dangerous or defective conditions of public property. The Property Owner hereby agrees to pay for such inspection of improvements as may be required by the City Engineer of City.

Section 8. This agreement and the covenants contained herein shall be binding upon and inure to the benefit of the successors, heirs, assigns, and transferees of Property Owner, shall run with said real property, and create an equitable servitude upon said real property.

Section 9. A description of the property referred to herein and upon which said lien is imposed is described as follows:

Parcel 1 of Parcel Map 75-5 as shown by map on file in Book 60, page 5 of Parcel Maps, Records of Riverside County, California.
Section 10. The improvements required and the estimated costs thereof are as follows:

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<tr>
<td>Sidewalk, 0' x 0' = 0 S.F. at $0 S.F.</td>
<td>$0</td>
</tr>
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<td>Other:</td>
<td></td>
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</table>

TOTAL: $2,354.00

ITEMS 2, 4, & 5: All work is to be in accordance with City Standards, copies of which are obtainable at the Engineering Department, City Hall.

ITEM 5: Pavement and base thickness to be constructed shall be determined by the resistance value of existing subgrade and the traffic index determined by the City Engineer, based on a 20 year pavement life.

NOTE: 1) Place compacted fill to top of curb in the area between the curb and property line.

2) Do not encroach into the City owned right-of-way with fences, structures, sprinklers or decorative items.

ADDITIONAL NOTES:

PROPERTY OWNER SIGNATURES

Ferenc Szeczy
Marcia Szeczy

STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

On July 12, 1979 before me, the undersigned, a Notary Public in and for said State, personally appeared Ferenc Szeczy and Marcia Szeczy, known to me to be the persons whose names are subscribed to the within instrument as Property Owner, and acknowledged that they executed the same.

WITNESS: My hand and official seal.

[Seal]

Notary Public in and for said County and State.
WITNESS our hands and seals this 14th day of January, 1990.

CITY OF BANNING, a municipal corporation of the State of California.

By E. Spr. Palc. Mayor

City Clerk

STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

On January 14, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared E. Brigitte Pagel known to me to be the Mayor, and Darlene L. Lefler known to me to be the City Clerk of the City of Banning, the municipal corporation which executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the within instrument pursuant to a resolution of the City Council.

WITNESS my hand and official seal.

Notary Public in and for said County and State.

END RECORDED DOCUMENT DONALD D. SULLIVAN, COUNTY RECORDER
LIEN CONTRACT FOR IMPROVEMENTS
IN PUBLIC RIGHT-OF-WAY.

THIS AGREEMENT entered into by and between the CITY OF BANNING, a municipal corporation of the State of California, sometimes hereinafter referred to as "City," and Frank Sancy and Nycia Sancy sometimes hereinafter referred to as "Property Owner,"

WHEREAS, Property Owner has applied to City for a LIA 79-6 for the real property hereinafter described, now under Property Owner's ownership; and

WHEREAS, it has been determined and found that said property is not suitable for said LIA 79-6 in its present condition; however, said property would be suitable for said LIA 79-6 if certain improvements herein described will be constructed and certain irrevocable offers of dedication are made to City; and

WHEREAS, ordinances of the City require improvements and dedications as a condition of LIA 79-6; and

WHEREAS, it has been determined to be in the public interest to temporarily postpone the construction of said improvements; and

WHEREAS, Property Owner has requested said LIA 79-6 be granted by City in advance of the time said improvements are to be made.

NOW, THEREFORE, IT IS AGREED between the parties hereto as follows;

Section 1. That the City agrees to record the irrevocable offers of dedication made by the Property Owner.

Section 2. That the Property Owner, in lieu of making the improvements specified herein before said LIA 79-6 is granted, agrees to install and construct, or cause to be installed or constructed, the improvements herein set forth in accordance with plans and specifications approved by the City Engineer within 60 days after written demand so to do by City. The Property Owner shall no be required to make said improvements before July 31, 1981, or within any further period of time as is granted by City; provided, however, that upon the happening of either of the following occurrences said improvements may, at the sole election of the City, be required to be made sooner than said July 31, 1981, or such extended period of time which may have been granted by City:

(a) When the City Council finds that the owners of 40% or more of the frontage, including the frontage of the Property Owner, between intersecting streets on both sides of the street upon which the property herein described has frontage, have agreed with the City to install or have already installed street and/or utility installations.

RIVERSIDE, CA Document:ES 1980.15992
Printed on:11/5/2018 10:23 AM
(b) cont.

Said improvements shall be made without cost or expense to the City. City guarantees that the cost of engineering and construction of said improvements at the time of signing this contract is $1,325.00; and that said cost is a reasonable estimate of engineering and construction costs at this time and that the actual cost of same at some time in the future may exceed this estimate.

Section 5. That for the faithful performance of the provisons and covenants herein contained, Property Owner hereby grants to City a lien upon the herein described property in the amount of $1,325.00, plus any future advances in excess of this sum resulting from increased engineering and construction costs, and in the event the Property Owner, his successors, heirs, assigns, or transferees fail to complete the contract said improvements in the manner and within the time specified hereinabove agrees that the City may do any or all of the following:

(a) Have the necessary engineering for said improvements done and construct said improvements by contract or otherwise, City or its contractor and his employees may enter upon any portion or portions of the property reasonably necessary for said engineering and construction, and the entire cost and expense shall be charged against said property and payable by said Property Owner, his successors, heirs, assigns, or transferees, immediately upon completion of said improvements. In the event same is not paid within 30 days from completion, City may foreclose said lien as provided by law for the foreclosure of mortgages.

(b) Direct the City Engineer to estimate the cost of necessary engineering, and the work required to install and construct said improvements, and foreclose said lien in said amount.

(c) Pursue any remedy, legal or equitable (including those specifically referred to herein), for the foreclosure of a lien, and the Property Owner, his successors, heirs, assigns, and transferees, shall be liable for reasonable attorneys’ fees as a cost in said proceedings.

Section 6. That it is agreed that anything herein contained to the contrary notwithstanding, the provisons and covenants made herein shall not be binding upon the holders, mortgagees, or beneficiaries of any purchase money mortgage or purchase money deed of trust, for value which has been or may in the future be executed by the Property Owner, his successors, heirs, assigns, or transferees, and the lien hereby created shall be and is hereby subordinated to and declared to be inferior and subsequent in lien to the lien of any such purchase money mortgage or purchase money deed of trust. The lien hereby created shall likewise be of no force or effect against any person whose title to the property hereinafter described is acquired by or as a result of a foreclosure or trustee sale of any such purchase money mortgage or purchase money deed of trust.

Section 7. That at any time during the period herein provided, the Property Owner, his successors, heirs, assigns, or transferees, may deposit a cash bond or post a surety performance bond satisfactory to the City to charge said surety with the cost of said improvements; the amount of bond to be the extended cost of engineering and improvements at the time of deposit or posting as aforesaid by the City Engineer, and that upon deposit of said cash or posting of said bond the City agrees to release to each of a record title of the property to be released from the lien herein imposed.

Section 8. Said City shall not, nor shall any officer or employee thereof, be liable or responsible for any accident, loss or damage happening or occurring to the work or improvements specified in this agreement prior to the completion and acceptance of the same, nor shall said City, nor any officer or employee thereof, be liable for any repairs made to property injured by reason of said work or improvements, but all of said liabilities shall be assigned by said Property Owner, and his successors, heirs, assigns, and transferees, and they shall save the City harmless from, and indemnify the City against, any and all claims, suits and liabilities of or to any person or property injured or claiming to be injured as a result of said work or improvements. Said Property Owner, and his successors, heirs, assigns, and transferees, further agrees to protect said City and the officers and the employees thereof from all liability or claim because of, or arising out of, the use of any patent or patented article in the construction of said improvements.
Section 7. It is further agreed that said Property Owner will, at all times up to the completion of and acceptance of said work and improvements by the City, give good and adequate warning to the travelling public of any dangerous or defective conditions of public property. The Property Owner hereby agrees to pay for such inspection of improvements as may be required by the City Engineer of City.

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ITEM 3: Pavement and base thickness to be constructed shall be determined by the resistance value of existing subgrade and the traffic index determined by the City Engineer, based on a 20 year pavement life.

NOTE: 1) Place compacted fill to top of curb in the area between the curb and property line.

2) Do not encroach into the City owned right-of-way with fences, structures, sprinklers or decorative items.

ADDITIONAL NOTES:


PROPERTY OWNER SIGNATURES


STATE OF CALIFORNIA.
COUNTY OF RIVERSIDE.

On July 12, 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared Francesco Szeczy and Marcia Szeczy known to me to be the persons whose names are subscribed to the within instrument as Property Owner, and acknowledged that they executed the same.

WITNESS my hand and official seal.

Notary Public in and for said County and State.
END RECORDED DOCUMENT
DONALD G. SULLIVAN, COUNTY RECORDER

RIVERSIDE PUBLIC USE AND PARK DISTRICT

STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

IN COURT OF EQUITY. JUDICIAL DISTRICT OF THE CITY OF RIVERSIDE

ON the 15th day of October, 1969, the undersigned, a Secretary of the City of
Riverside, being duly sworn, personally appeared before the

WITNESSES our hands and seals this 15th day of October, 1969.

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WITNESSES our hands and seals this 15th day of October, 1969.
PLEASE COMPLETE THIS INFORMATION
RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO:

BURKE, WILLIAMS AND SORENSEN
2280 MARKET STREET STE 300
RIVERSIDE, CALIFORNIA
92501-2121

TRA:

DTT:

(Proposed) PERMANENT INJUNCTION
Title of Document

THIS AREA FOR RECORDER'S USE ONLY

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
($3.00 Additional Recording Fee Applies)

ACR 238P-AS4RE0 (Rev. 06/2007)
Superior Court of the State of California
County of Riverside

People of the State of California, and City of Banning,
Plaintiffs,
v.
Ferenc Szeczy, an individual;
Marcia Szeczy, an individual; Does 1 through 20,
Defendants.

Case No. RIC 446137

[Proposed] Permanent Injunction

Judge: Hon. Gloria Connor Trask
Dept. 4

To Defendants Ferenc Szeczy and Marica Szeczy:

Based on the Complaint filed by Plaintiffs the People of the State of California and the City of Banning (collectively “Plaintiffs”), all other papers and pleadings on file herein, and good cause appearing therefore, a Permanent Injunction is hereby issued and IT IS HEREBY ORDERED:

1. Defendants will continue to maintain the listing of the improved property located at 1356 W. Lincoln Street in the City of Banning, California, and also known as County of Riverside Assessor’s Parcel Number 540-230-033 (the “Property”) for sale with a licensed real estate broker or agent;

2. Defendants will continue diligent efforts to sell the Property;

[Proposed] Permanent Injunction
3. As a condition of escrow, the purchaser of the Property must bring the building on
the unimproved property into full compliance with the Banning Municipal Code
within three (3) months from the date of sale by doing the following:
(a) Within thirty (30) days from the date of close of escrow for sale of the
Property, the purchaser shall submit a Building Permit Application to the
City of Banning Building & Safety Division, along with all required fees
and documentation, for the building on the improved property;
(b) Within thirty (30) days after issuance of a Building Permit from the City of
Banning Building & Safety Division, the purchaser shall finish all repairs
and obtain final inspections and approvals on any permit for repair of the
exterior of the building on the improved property, including roof areas,
cave areas, and/or exterior walls;
(c) Within ninety (90) days from the date of close of escrow for sale of the
Property, the purchaser shall apply for and obtain a Certificate of
Occupancy for the building on the improved property consistent with the
applicable “Business Park” zoning;
(d) Alternatively, within thirty (30) days from the date of close of escrow for
sale of the Property, the purchaser shall apply for and obtain a demolition
permit, and demolish the building on the improved property within sixty
(60) days from the date of close of escrow sale of the Property.

4. If Defendants remove the Property from being listed for sale, or otherwise
discontinue diligent efforts to sell the Property, then within three (3) months of
such removal Defendants must bring the building on the unimproved property into
compliance by doing the following:
(a) Within thirty (30) days from the date that the Property ceases being listed
for sale, Defendants shall submit a Building Permit Application to the City
of Banning Building & Safety Division, along with all required fees and
documentation, for the building on the improved property;
Within thirty (30) days after issuance of a Building Permit from the City of Banning Building & Safety Division, Defendants shall finish all repairs
and obtain final inspections and approvals on any permit for repair of the exterior of the building on the improved property, including roof areas,
eave areas, and/or exterior walls;

Within ninety (90) days from the date that the Property ceases being listed for sale, Defendants shall apply for and obtain a Certificate of Occupancy for the building on the improved property consistent with the applicable “Business Park” zoning;

Alternatively, within thirty (30) days from the date that the Property ceases being listed for sale, Defendants shall apply for and obtain a demolition permit, and demolish the building on the improved property within sixty (60) days from the date that the Property ceases being listed for sale.

Aside from the above terms relating to the building on the improved, Defendants are required to maintain the Property in compliance with applicable state and local building, zoning, housing, property maintenance, electrical, plumbing, mechanical,
administrative, and health and safety codes on an ongoing bases;

Any violations of the aforementioned orders or any other terms of the injunction may result in a finding of contempt upon further application to the court by Plaintiffs or other aggrieved person;

Any violations of the aforementioned orders or any other terms of the injunction may result in sanctions of $1,000.00 per violation per day upon further application to the Court by Plaintiffs or other aggrieved person;

If Defendants or the successor property owners fail to abate the nuisance as specified, then Plaintiffs can do so at Defendants' or the successor property owners' expense upon further application to the Court;

If Defendants or the successor property owners fail to abate the nuisances as specified, then a receiver can be appointed to do so at Defendants' or the successor
property owners’ expense upon further application to the Court by Plaintiffs or other aggrieved person;

10. The Permanent Injunction shall be effective against Defendants so long as Defendants retain record title to the Property, and shall be binding upon and inure to the benefit of the Stipulating Parties as well as their respective successors, heirs, and/or assigns, and their respective affiliates, partners, joint ventures, principals, shareholders, directors, officers, employees, counsel, agents, and/or representatives;

11. The Permanent Injunction shall be recordable as against the Property in the County of Riverside.

Dated: 2/6/08

By: [Signature]

JUDGE OF THE SUPERIOR COURT
PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Riverside County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 2280 Market Street, Suite 300, Riverside, California 92501-2121. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On January 29, 2008, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

[Proposed] PERMANENT INJUNCTION

in a sealed envelope, postage fully paid, addressed as follows:

Steven J. Zipperman, Esq.
Law Offices of Steven J. Zipperman, APC
One Mountain Gate
Coto de Caza, CA 92679

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 29, 2008, at Riverside, California.
This must be in red to be a "CERTIFIED COPY"

Each document to which this certificate is attached is certified to be a full, true and correct copy of the original on file and of record in my office.

Superior Court of California
County of Riverside

[Signature]
DEPUTY
Dated: 12/18

Certification must be in red to be a "CERTIFIED COPY"
THIS PAGE
INTENTIONALLY LEFT BLANK
TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Maryann Marks, AICP, Interim Community Development Director
Sandra Calderon, Development Project Coordinator
MEETING DATE: February 26, 2019

RECOMMENDATION:

That the City Council:

1. Conduct a Public Hearing on the proposed extension of time for Tentative Tract Map No. 36939; and


APPLICANT INFORMATION:

PROJECT APPLICANT: Banning 97, LLC
10621 Civic Center Drive
Rancho Cucamonga

PROPERTY OWNER: Banning 97, LLC
10621 Civic Center Drive
Rancho Cucamonga

**PROJECT LOCATION:** Generally located north of Wilson Street between Sunset Ave. and Sunrise Ave.


**PROJECT AREA:** 34.6 acres

**JUSTIFICATION:**

In accordance with California Government Code (CGC) Section 66452.6 (a) (1), an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval, or after any additional time as may be prescribed by local ordinance, not to exceed a total of 36 months. Pursuant to Condition of Approval No. 3, Tentative Tract Map was granted an initial duration of two (2) years. CGC Section 66452.6 (e) allows for extensions of time for approved or conditionally approved tentative maps if the subdividers submits an application for an extension prior to the expiration of the map.

Tentative maps may be extended by the legislative body for a period or periods not exceeding a total of six years. Therefore, an approved tentative map may remain active for at least a total of eight years, with City Council granted discretionary extensions, before expiring. Additional extensions of time may result from the filing of a phased final maps for part of the property, or by acts of the State Legislature known as automatic “Legislative Extensions”.

**BACKGROUND:**

On February 23, 2016, the City Council approved Tentative Tract Map 36939 (Attachment 2) and Zone Change No. 15-3501 amending the zoning map to eliminate the RL-10,000 overlay affecting the western portion of the site to low density residential (LDR, 0 to 5 units per acre) and adopted a Mitigated Negative Declaration and a Mitigation, Monitoring, and Reporting Program to allow the subdivision of a 34.6 acre site to create 98 numbered lots for single-family residential development and three (3) lettered lots; The original approval of Tentative Tract Map 36939 provided for a 24-month expiration date of February 23, 2018 by adoption of Ordinance 1495 (Attachment 4),

In 2018, the City Council approved the first twelve (12) month extension of time for Tentative Tract Map 36939 under Government Code Section 66452.6(e) by adoption of Resolution No. 2018-14 (Attachment 3) which extended the life of the Map to February 23, 2019.
On December 19, 2018, the Planning Division received an application from the project applicant seeking approval of a second twelve (12) month extension of time for Tentative Tract Map No. 36939 under Government Code Section 66452.6(e).

ANALYSIS:

Government Code Section 66452.6(e) authorizes the extension of the life of Tentative Tract Map No. 36939 for up to an additional four years. If approved, the extension of time will extend the life of the Map to February 23, 2020, and will require the project applicant to record the Final Map by or before that date, unless by that date, the applicant files for another extension, and thereafter the City Council grants another extension to the life of the Map.

The Council’s approval of the requested 12-month extension of time would provide the subdivider with additional time to develop the Tentative Tract Map.

FISCAL IMPACT:

There are no direct fiscal impacts to the General Fund from this action. However, should the applicant record the Final Tract Map and obtain permits for the project, the City would receive building permit fees, development impact fees and eventually a portion of the increased property taxes generated from the property.

PUBLIC COMMUNICATION:

The proposed Tentative Map Extension was advertised in the Record Gazette newspaper on February 15, 2019. Additionally, notice was mailed to all property owners within 300 feet of the project. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

ATTACHMENTS:

1. Resolution 2019-18
2. TTM 36939
3. Copy of Resolution 2018-14
4. Copy of Ordinance 1495 approving TTM 36939
5. Public Hearing Notice

Approved by:

[Signature]

Douglas Schulze
City Manager
RESOLUTION 2019-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BANNING, CALIFORNIA, APPROVING A TWELVE (12)
MONTH TIME EXTENSION FOR TENTATIVE TRACT MAP
36939 (TTM 36939)

WHEREAS, an application for an extension of time for Tentative Tract Map No. 36939 has been duly filed by:

Project Applicant: Banning 97, LLC

Project Location: Generally located north of Wilson Street between Sunset Ave. and Sunrise Ave.


Project Area: 34.6 Acres

WHEREAS, on February 23, 2016, by adoption of Ordinance 1495, the City Council of the City of Banning approved Tentative Tract Map 36939 to allow the subdivision of a 34.6 acre site to create 98 numbered lots for single-family residential development and three (3) lettered lots; and, zone change amending the zoning map to eliminate the RL-10,000 overlay affecting the western portion of the site to low density residential (LDR, 0 to 5 units per acre);

WHEREAS, the original approval on February 23, 2016 provided the applicant two (2) years in which to obtain final approval of the map (until February 23, 2018).

WHEREAS, on February 23, 2016, by the adoption of Ordinance 1495, the City Council also adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program in connection with the approval of the Tentative Tract Map 36939 after finding that with mitigation, the environmental impacts of the project could be mitigated to less than significance; WHEREAS, On February 27, 2018, the City Council approved the first twelve (12) month extension of time for Tentative Tract Map No. 36939 by adoption of Resolution 2018-14, extending the life of the Map to February 23, 2019.

WHEREAS, on December 19, 2018, the project applicant timely filed an application seeking a second twelve (12) month extension of time for Tentative Tract Map 36939; and

WHEREAS, on February 26, 2019, the City Council held a duly noticed public hearing to consider the proposed extension of time for Tentative Tract Map 36939.
WHEREAS, it has been determined by City Staff that no additional environmental review is required in connection with the approval of this extension pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162 because the previous Mitigated Negative Declaration was duly adopted for this project and no substantial changes to the project or the circumstances surrounding the project require major revisions are proposed by the extension of time for the tentative map;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Banning hereby approves an additional twelve (12) month extension of time for Tentative Tract Map No. 36939 in accordance with Government Code Section 66452.6 so as to extend the duration of the map until February 23, 2020. Therefore, Tentative Tract Map 36939 shall expire February 23, 2020.

SECTION 1. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 26th day of February, 2019.

________________________________
Arthur L. Welch, Mayor
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

______________________________
Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

ATTEST:

______________________________
Daryl Betancur, Deputy City Clerk
City of Banning, California
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-18 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 26th day of February 2019, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Daryl Betancur, Deputy City Clerk
City of Banning, California
ATTACHMENT 2
TTM 36939
ATTACHMENT 3
Copy of Resolution
2018-14
RESOLUTION 2018-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A TWELVE (12) MONTH TIME EXTENSION FOR TENTATIVE TRACT MAP 36939 (TTM 36939)

WHEREAS, an application for time extension for Tentative Tract Map 36939 has been duly filed by:

Project Applicant: Banning Wilson 97, LLC
Project Location: Generally located north of Wilson Street between Sunset and Sunrise.
Project Area: 34.6 Acres

WHEREAS, it has been determined by City Staff that no additional environmental review is required pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162 in that a previous negative declaration was duly adopted for this project and no substantial changes to the project that require major revisions are proposed by the extension of time for the tentative map; and

WHEREAS, on February 23, 2016, by adoption of Ordinance 1495, the City Council of the City of Banning approved Tentative Tract Map 36939 to allow the subdivision of a 34.6 acre site to create 98 numbered lots for single-family residential development and three (3) lettered lots; and, zone change amending the zoning map to eliminate the RL-10,000 overlay affecting the western portion of the site to low density residential (LDR, 0 to 5 units per acre);

WHEREAS, the original approval on February 23, 2016 provided the applicant two (2) years in which to obtain final approval of the map (until February 23, 2018).

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BANNING:

Section 1. The City Council of the City of Banning hereby approves a twelve (12) month extension of time to the expiration of Tentative Tract Map 36939 in accordance with Government Code Section 66452.6. With this approval, Tentative Tract Map shall expire on February 23, 2019.

Section 2. The City Clerk shall certify to the adoption of this Resolution and place the original in the book of Resolutions of the City Council.
PASSED, APPROVED AND ADOPTED this 27th day of February, 2018.

George Moyer, Mayor
City of Banning, California

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2018-14 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 27th day of February, 2018, by the following vote, to wit:

AYES: Council Members Andrade, Franklin, Peterson, Welch, and Mayor Moyer
NOES: None
ABSENT: None
ABSTAIN: None

Sonja De La Fuente, Deputy City Clerk
City of Banning, California
ATTACHMENT 4
Copy of Ordinance 1495 with Mitigation, Monitoring, Reporting Program (MMRP) and Conditions of Approval
ORDINANCE NO. 1495

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION, MONITORING, AND REPORTING PROGRAM; APPROVING TENTATIVE TRACT MAP NO. 15-4501 (TTM 36939) TO SUBDIVIDE A 34.6 ACRE SITE TO CREATE 98 NUMBERED LOTS FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENT AND THREE (3) LETTERED LOTS; AND, ZONE CHANGE NO. 15-3501 AMENDING THE ZONING MAP TO ELIMINATE THE RL-10,000 OVERLAY AFFECTING THE WESTERN PORTION OF THE SITE TO LOW DENSITY RESIDENTIAL (LDR, 0 TO 5 UNITS PER ACRE)

WHEREAS, the applicant has submitted an application for a Zone Change and Tentative Tract Map so that the Planning Commission and City Council may consider the proposed amendment to the Zoning Map to eliminate the RL-10,000 Overlay and maintain the site's Low Density Residential (LDR) zoning designation, and Tentative Tract Map 36939 to subdivide a 34.6 acre lot for purposes of creating 98 single-family lots and 3 lettered lots, which was duly filed by:

Project Applicant: Peter J. Pitassi
10621 Civic Center Drive
Diversified Pacific
Rancho Cucamonga, CA 91730

Project Owner: Banning Wilson 97, LLC
10621 Civic Center Drive
Rancho Cucamonga, CA 91730

Project Developer: Banning Wilson 97, LLC
10621 Civic Center Drive
Rancho Cucamonga, CA 91730

Parcel Address: Generally located north of Wilson Street between Sunset and Sunrise Avenue


Site Area: 34.6 Acres
WHEREAS, the Municipal Code allows the subdivision of approximately 34.6 acres within the Low Density Residential zoning district into 98 parcels subject to the approval of the Zone Change to remove the exiting RL-10,000 Overlay; 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 prepared a Mitigated Negative Declaration (MND) in compliance with CEQA Statue Section 21064.5 which incorporates conditions and mitigation measures that reduce the potential impacts of the project below significance; and

WHEREAS, on November 20, 2015, and December 11, 2015, 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, the Mitigated Negative Declaration’s Notice of Intent/Notice of Availability regarding Tentative Tract Map 36939 and Zone Change, was advertised in the Record Gazette and The Press Enterprise newspapers on October 16, 2015, and December 17, 2015, respectively. Additionally, the notice was mailed to all property owners within 300 feet of the Project; and

WHEREAS, on December 2, 2015, and January 6, 2016, the Planning Commission held the noticed public hearings 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 the Mitigated Negative Declaration, Zone Change and Tentative Tract Map 36939; and

WHEREAS, on January 29, 2016, 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 February 9, 2016, the City Council 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 City Council considered the Mitigated Negative Declaration, Zone Change and Tentative Tract Map 36939; and

WHEREAS, at these public hearings, the Planning Commission and City Council considered, heard public comments on, and adopted a Mitigated Negative Declaration for the Project;

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

SECTION 1. ENVIRONMENTAL FINDINGS
The City Council, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines, the recommendation of the Community Development Department as provided in the Staff Report dated February 9, 2016, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. **California Environmental Quality Act (CEQA)**
   The approval of the Tentative Tract Map 36939 is in compliance with the requirements of CEQA, in that on January 6, 2016, at a duly noticed public hearing, the Planning Commission approved and adopted a Mitigated Negative Declaration and Mitigation Monitoring Program reflecting its independent judgment and analysis and documenting that there was no substantial evidence, in light of the whole record, from which it could be fairly argued that the Project may have a significant effect on the environment. The documents comprising the City's environmental review for the Project are on file and available for public review at Banning City Hall, 99 E. Ramsey Street, Banning, California 92220.

2. **Multiple Species Habitat Conservation Plan (MSHCP):** The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP mitigation fee.

**SECTION 2. MAP ACT FINDINGS**

In accordance with Banning Municipal Code § 22-27 and Government Code §§ 66473.1, § 66473.5 and § 66474, the City Council, in light of the whole record before it, including but not limited to the Planning Department's staff report and all documents incorporated by reference therein, the City’s General Plan, Subdivision Ordinance, Zoning Ordinance, standards for public streets and facilities and any other evidence within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. **Tentative Tract Map (TTM) 36939** is 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 Low Density Residential (LDR) which allows housing densities from 0 to 5 dwelling units per acre. The proposed Map will result in the development of 98 single family residential dwelling units at a density of 2.8 units per acre. With the elimination of the RL-10,000 overlay zone currently overlaying a portion of the property, this density level is within the range permitted under the General Plan land use designation for this site. One of the primary policies of the Land Use Element of the General Plan is that projects adjacent to existing neighborhoods shall be carefully reviewed to assure that neighborhood character is protected. The proposed Tentative Tract Map serves to achieve this objective in that the rezoning and subdivision design is consistent with existing neighborhood housing stock. Considering all of these aspects, the proposed Map furthers the objectives and policies of the General Plan and is compatible with the general land uses districts within the general vicinity of the Project.
2. The design and improvement of the subdivision proposed under Tentative Tract Map 36939 is consistent with the City's General Plan.

Findings of Fact: The proposed subdivision has been designed to meet City standards which provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities have been designed and are conditioned to be constructed in conformance with City standards.

3. The site is physically suitable for the type of development proposed under Tentative Tract Map 36939.

Findings of Fact: The 34.6 acre site is relatively flat with slight, hilly undulations ranging in elevation from 2,550 to 2,650 feet above mean sea level. Two previous tentative tract entitlements reflect the historic interest to develop the property for residential development purposes in that the site lies adjacent to single-family residential zoned districts supported and supplied with the necessary infrastructure required for residential development. In that the Project intends to connect to existing infrastructure, the Project will be consistent with the goals and objectives of the General Plan.

4. The site is physically suitable for the density of development under Tentative Tract Map.

Findings of Fact: The site is located within an Earthquake Fault Zone and the Project's northern boundary line runs parallel with the San Gorgonio Pass Fault. The subdivision incorporates a fault setback zone, referenced as Lot "A" ranging in width from 40 feet to 160 feet. Pursuant to the Alquist-Priolo Act, no human habitation can be built within the fault setback zone. The Project shall prohibit the construction of structures within the fault setback zone. With the incorporation of the fault setback zone, the site is physically suitable for the intended density and consistent with the City's General Plan.

5. The design of the subdivision and improvements proposed under Tentative Tract Map 36939 are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Findings of Fact: The site is currently vacant and does not contain any significant vegetation or habitat for wildlife. Per the Multiple Species Habitat Conservation Plan (MSHCP), there is no evidence that any endangered, threatened or listed species of plant or animal, or its habitat, is located on the site. There is no evidence that vernal pool complex, similar bodies of water, or conditions suitable for forming such bodies of water exist on the site. This determination is based on MSHCP report prepared by LSA Associates, dated May 2015. The Project incorporates conditions intended to comply with the recommendations of the MSHCP. In addition, this Project has been conditioned to comply with the environmental policies and regulations of the City of Banning and those of all local and regional governmental agencies having jurisdiction over the site.

6. The design of the subdivision and improvements proposed under Tentative Tract map 36939 is not likely to cause health problems.
Findings of Fact: The design of the subdivision is in conformance with the City’s General Plan, Zoning Ordinance, and Subdivision Ordinance, the construction of all units on the site has been conditioned to comply with all applicable City of Banning ordinances, codes, and standards including, but not limited to, the California Uniform Building Code, the City’s Ordinances relating to Stormwater runoff management and controls. In addition, the design and construction of all improvements for the subdivision has been 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. Finally, the proposed street system throughout the subdivision will improve emergency vehicular access and in the immediate neighborhood.

7. The design of the subdivision and improvements proposed under Tentative Tract Map 36939, 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: No easements of record or easements established by judgment of a court of competent jurisdiction for public access across the site have been disclosed in a search of the title records for the site and the City does not otherwise have any constructive or actual knowledge of any such easements.

8. The design of the subdivision proposed, Tentative Tract Map 36939 adequately provides for future passive or natural heating and cooling opportunities.

Findings of Fact: Taking into consideration local climate and the existing contour and configuration of the site and its surroundings, the size and configuration of lots within the proposed subdivision have been arranged, to the greatest extent feasible, to permit orientation of structures in an east-west alignment for southern exposure, or to take advantage of natural shade, or to take advantage of prevailing breezes.

SECTION 3. ZONE CHANGE FINDINGS

1. The proposed Amendment is consistent with the goals and policies of the general plan.

Findings of Fact: The property’s land use designation is Low Density Residential (LDR) with a portion of the site designated as RL-10,000. The minimum lot size per the RL-10,000 standard is intended for single family residential development with 10,000 square foot lots. The lots TTM 36939 proposes range from 7,468 square feet to 25,403 square feet which are large enough to accommodate families with children and daily home based activities. The zone change request eliminates the RL-10000 overlay and would allow 0 to 5 dwelling units per acre. The proposed 98 unit subdivision is below the maximum number that the Low Density Residential zoning district permits. At the maximum permitted per the LDR zoning district, 173 single family units could be provide. In keeping with the subdivision design, the rezoning proposed for the Project is consistent with the General Plan.

2. The proposed Amendment is internally consistent with the Zoning Ordinance.
Findings of Fact: The proposed Project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards. As discussed in the Staff Report and pursuant to the Project’s conditions of approval, the proposed streets and subdivision design will be constructed in conformance with City standards and specifications. The Mitigation, Monitoring, and Reporting Program is intended to ensure that the developer adheres to best management practices in the development of the site.

3. The Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact: The City, in light of the whole record before it including but not limited to the City’s local CEQA Guidelines and Thresholds of Significance, the proposed Mitigated Negative Declaration and documents incorporated therein by reference, any written comments received and responses provided, the proposed Mitigation Monitoring Program and other substantial evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record and/or provided at the public hearing, hereby finds and determines as follows:

1. Review Period: That the City has provided the public review period for the Mitigated Negative Declaration for the duration required under CEQA Guidelines Sections 15073 and 15105.

2. Compliance with Law: That the Mitigated Negative Declaration and Mitigation Monitoring Program were prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Banning.

3. Independent Judgment: That the Mitigated Negative Declaration reflects the independent judgment and analysis of the City.

4. Mitigation Monitoring Program: That the Mitigation Monitoring Program is designed to ensure compliance during project implementation in that changes to the Project and/or mitigation measures have been incorporated into the Project and are fully enforceable through permit conditions, agreements or other measures as required by Public Resources Code Section 21081.6.

5. No Significant Effect: That revisions made to the Project plans agreed to by the applicant and mitigation measures imposed as conditions of approval on the Project, avoid or mitigate any potential significant effects on the environment identified in the Initial Study to a point below the threshold of significance. Furthermore, after taking into consideration the revisions to the Project and the mitigation measures imposed, the Planning Commission finds that there is no substantial evidence, in light of the whole record, from which it could be fairly argued that the Project may have a significant effect on the environment. Therefore, the Planning Commission concludes that the Project will not have a significant effect on the environment.
SECTION 4. CITY COUNCIL ACTION

The City Council hereby takes the following actions:

1. In accordance with CEQA Statue Section 21064.5, the City Council hereby adopts the Mitigated Negative Declaration and Mitigation, Monitoring, and Reporting Program and directs the Acting Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Determination as provided under Public Resources Code Section 21108, and CEQA Guidelines Section 15075; and

2. Approves Zone Change No. 15-3501 amending the Zoning Map to eliminate the RL-10,000 Overlay affecting the western portion of the site to Low Density Residential (LDR, 0 to 5 units per acre) and approves Tentative Tract Map No. 15-4501 (TTM 36939) a proposal to subdivide 34.6 acres of vacant land for purposes of creating 98 numbered lots for single-family residential development and three (3) lettered lots, subject to Conditions of Approval attached hereto and incorporated herein by reference as Exhibit A.

SECTION 5. SEVERABILITY

If any section, subsection, sentence, clause, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have passed this Ordinance and each and every 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 6. 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 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.

PASSED, APPROVED, AND ADOPTED this 23rd day of February, 2016.

[Signature]
Arthur L. Welch, Mayor
City of Banning
ATTEST:

[Signature]
Marie A. Calderon, City Clerk
City of Banning, California

APPROVED AS TO FORM AND
LEGAL CONTENT:

[Signature]
Anthony R. Taylor, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1495 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 9th day of February, 2016, and was duly adopted at a regular meeting of said City Council on the 23rd day of February, 2016, by the following vote, to wit:

AYES:  Councilmembers Franklin, Moyer, Mayor Welch

NOES:  Councilmembers Miller, Peterson

ABSENT:  None

ABSTAIN:  None

[Signature]
Marie A. Calderon, City Clerk
City of Banning, California
<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Timing</th>
<th>Verification</th>
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<tbody>
<tr>
<td><strong>Biological Resources</strong></td>
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<tr>
<td>BIO-1: Pre-Construction Burrowing Owl Survey. Per the Multiple Species Habitat Conservation Plan, and additional pre-construction Burrowing Owl survey will be required within 30 days prior to beginning of site grading.</td>
<td>Prior to building permit issuance</td>
<td>Community Development Department</td>
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<td>a. In the event that the pre-construction survey identifies the presence of at least one individual but less than three (3) mating pairs of burrowing owl, then prior to the issuance of a grading permit and prior to the commencement of ground-disturbing activities on the property, the qualified biologist shall passively or actively relocate any burrowing owls. Passive relocation, including the required use of one-way doors to exclude owls from the site and the collapsing of burrows, will occur if the biologist determines that the proximity and availability of alternate habitat is suitable for successful passive relocation. Passive relocation shall follow California Department of Fish and Wildlife relocation protocol. If proximate alternate habitat is not present as determined by the biologist, active relocation shall follow California Department of Fish and Wildlife relocation protocol. The biologist shall confirm in writing to the Planning Department that the species has fledged or been relocated prior to the issuance of a grading permit.</td>
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<tr>
<td>BIO-2: Native Plan Recovery: Developer shall recover native and drought tolerant plant materials, and incorporate them into project landscaping, to provide or enhance habitat for</td>
<td>Prior to building permit issuance</td>
<td>Community Development Department</td>
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<td>Mitigation Measure</td>
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<td>local species to the extent possible.</td>
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<td><strong>Cultural Resources</strong></td>
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<td><strong>CR-1: Archaeological Monitoring.</strong> Prior to the issuance of a grading permit, the Project Proponent shall implement the following program:</td>
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<td>a) A qualified archaeological monitor shall be retained by the Project Proponent to conduct monitoring of all grading and trenching activities and has the authority to halt and redirect earthmoving activities in the event that suspected archaeological resources are unearthed during Project construction.</td>
<td>Prior to grading permit issuance</td>
<td>Community Development Department &amp; Public Works Department</td>
</tr>
<tr>
<td>b) During grading operations, a professional archaeological monitor shall observe the grading operation until such time as monitor determines that there is no longer any potential to uncover buried cultural deposits. If the monitor suspects that an archaeological resource may have been unearthed, the monitor shall immediately halt and redirect grading operations in a 100-foot radius around the find to allow identification and evaluation of the suspected resource. If the monitor determines that the suspected resource is potentially significant, the archaeologist shall notify the appropriate Native American Tribe(s) and invite a tribal representative to consult on the resource evaluation. In consultation with the appropriate Native American Tribe(s), the archaeological</td>
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<td>Mitigation Measure</td>
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<td>monitor shall evaluate the suspected resource and make a determination of significance pursuant to California Public Resources Code Section 21083.2. If the resource is significant, Mitigation Measure CR-2 shall apply.</td>
<td>During any earth movement activity</td>
<td>Department: Community Development Department</td>
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<td>Mitigation Measure</td>
<td>Timing</td>
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<td>according to current professional repository standards. The collections and</td>
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<td>associated records shall be donated to an appropriate curation facility, or, the</td>
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<td>artifacts may be delivered to the appropriate Native American Tribe(s) if that</td>
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<td>is recommended by the City of Banning. A final report containing the significance</td>
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<td>and treatment findings shall be prepared by the archaeologist and submitted to the</td>
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<td>City of Banning Community Development Department.</td>
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<td>CR-3: Paleontological Monitoring. Prior to the issuance of grading permits, the</td>
<td>Prior to grading</td>
<td>Community Development Department</td>
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<td>Project Proponent shall implement the following program:</td>
<td>permit issuance</td>
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<td>a) A qualified paleontologist shall be on-site at the pre-construction meeting</td>
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<td>to discuss monitoring protocols.</td>
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<td>b) The qualified paleontologist shall be empowered to temporarily halt or</td>
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<td>redirect grading activities paleontological resources are discovered.</td>
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<td>c) In the event of a paleontological discovery the monitor shall flag the area</td>
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<td>and notify the construction crew immediately. No further disturbance in the</td>
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<p>| Geology and Soils                                                               |                                 |                               |
| GEO-1 Fault Setback Zone. Fault Setback Zone. No human structures for human habitation can be built within this zone; however other land uses are permitted. | During Plan Check process        | Community Development Department |
| GEO-2 Recommended Fault Setback Zone Boundaries. The Project shall adhere to the recommendations and requirements cited in the RMA Group Report dated April 8, 2014 with regard to Fault Setback Zone Boundaries. | During Plan Check process and during construction activity | Community Development Department and Public Works Department |
| GEO-3 Debris and Catch Basins. The Project shall adhere to the recommendations and requirements cited in the RMA Group Report dated April 8, 2014 with regard to the design of catch and debris basins for Lot &quot;B&quot; and &quot;C&quot; and design requirements of the City of Banning Engineering and Public Works Department and WQMP report. | During Plan Check process and during construction activity | Community Development Department and Public Works Department |
| GEO-4 Fill in Graded Eastern Portion of Site. The existing undocumented fill is not adequate for purposes intended. | During permitted grading activity | Public Works Department        |</p>
<table>
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<th>Mitigation Measure</th>
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<td>and will need to be removed and recompacted.</td>
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<td>GEO-5 General Earthwork and Grading, All Earthwork and grading to be performed in accordance with the 2013 California Building Code and all applicable governmental agency requirements.</td>
<td>During permitted grading activity</td>
<td>Public Works Department and Community Development Department</td>
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<td>Hazards and Hazardous Materials</td>
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<td>HAZ-1 Fuel Modification Zone: Parcels adjacent to Lot &quot;A&quot; shall maintain a Fuel Modification Zone of 70 feet.</td>
<td>Prior to Final Map recording</td>
<td>Fire Department</td>
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<tr>
<td>HAZ-2 Hazard Plan: The Applicant shall submit a Hazard Analysis Prior to issuance of Building Permits</td>
<td>Prior to issuance of building permits.</td>
<td>Community Development Department</td>
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PROJECT #: TENTATIVE TRACT MAP NO. 15-4501 (TTM 36939)

SUBJECT: Conditions of Approval*

APPLICANT: Peter J. Pitassi


* All fair share agreements, covenant agreements, and agreements subject to recordation will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.

Community Development Department

General Requirements

1. The applicant shall indemnify, protect, defend, and hold harmless the City, and/or any of its officials, officers, employees, agents, departments, agencies, 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. The issuance of these Conditions of Approval do not negate the requirements of the Engineering/Public Works Department or submittal, review, and approval of: Street improvement plans, signing and striping plans, grading plans, storm drain improvement plans, street lighting plans, water, sewer, and electrical improvement plans, or other plans as deemed necessary by the City Engineer.

3. Approval of Tentative Tract 36939 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; otherwise, the approval shall expire and become null and void.

4. A copy of the signed resolution of approval and all conditions of approval and any applicable mitigation measures shall be reproduced in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for review and approval as required by the reviewing department.

5. The design of all lots shall meet the minimum property development requirements contained in the City's Zoning Ordinance for the Low Density Residential Zoning District.

6. The placement of the subdivision's CMU walls shall be in accordance with the following plan:

Perimeter Wall – a 6' high tan split face CMU (on the public side) with a 2" smooth cap located:
- Along the west side of Lot 47, adjacent to Sunset Avenue
- Along the north side of the Montgomery Creek Channel Right-of-Way
- Along the perimeter of Lot "B"
- Along the southeasterly side of Lot 69
- Along the south sides of Lots 78 and 81, and the east side of Lot 81
- Along the perimeter of Lot "C"
- Along the North side of Lots 5, 6, 9, and 10, and along the west side of Lot 10
- Along the Northeast and Northwest sides of Lot 11

Interior Fencing
- 6' high tan or white vinyl at rear and side yard fencing.
- 3' wide vinyl gate at the return fence at the garage side of each home.
- 6' high tan or white vinyl return fencing from the side fence to the home on each side

7. Prior to the issuance of any building permits, typical building elevations shall be submitted to the Planning Department for design review and approval, in accordance with the provisions and requirements of Article 16B of the Banning Ordinance Code.
8. Applicant shall pay all development fees adopted by the City in effect at the time of issuance of any building permits, which shall include but not be limited to: TUMF, MSHCP, police and fire safety developer fees, water and sewer fees, park land dedication fees, and electric meter installation fees etc. Project proponent shall provide written evidence to the City that school mitigation fees have been paid or other arrangements acceptable to the Banning Unified School District have been met.

9. A copy of the final grading plan, approved by Engineering, shall be submitted to the Office of Planning for review and approval of the landscaping and erosion control plans when graded cut slopes exceed five (5) feet in height and fill slopes exceed three (3) feet in height.

10. The following building setback lines shall be delineated on the composite development plan submitted for building permits:

   a. Front yard - Minimum 20 feet.

   b. Side yard (interior lot) - Minimum 10 feet (single-story: measured between the furthest projection of the wall to the property line).

      Side yard setbacks for two-story dwellings shall be staggered per Section 17.08.240(E) of the zoning ordinance.

   c. Side yard (corner lot - street side) – Minimum 15 feet.

   d. Side yard (corner lot – abutting interior lot) - Minimum 10 feet (measured between the furthest projection of the wall to the property line)

   e. Rear yard – minimum 15 feet.

11. The developer shall contact the U.S. postal Service to determine the appropriate type and location of mailboxes.

12. The applicant shall install slate, concrete, tile, clay tile, or equal roofing material approved by the Planning Department on all units within the subject property.

13. A trailer, used as an office by the property owner or his designee, may be permitted on the site during construction for a period not to exceed six (6) months. Prior to issuance of a building permit for any residential unit, said trailer shall be subject to a Land Use Permit reviewed and approved by the Planning Department.

14. Prior to the issuance of any Building Permits, the project proponent shall submit to the City’s Planning Department for review and approval: (1) three (3) copies of a drought-tolerant landscape plan and irrigation plans prepared by a licensed landscape architect. The drought-tolerant landscape plan shall include the following:
A. The location, type, size and quantity of vegetation to be installed, and a date by which
the landscaping shall be completed.

B. Required drought-tolerant slope planting: Slope planting shall be required for the
surface of all cut slopes of three (3) feet or greater in height and fill slopes more than
two (2) feet in height. Said slopes shall be protected against damage from erosion by
providing jute netting and planting with, ground cover plants or grass, except that
grass will not exceed 25% of the total planting area on the slope face.

1. All slopes exceeding three (3) feet in vertical height shall also be planted with
shrubs, spaced at distances not to exceed five (5) feet on center; or, trees spaced at
distances not to exceed ten (10) feet on center; or a combination of shrubs and
trees.

2. Slopes exceeding five (5) feet in vertical height shall be planted with a
combination of drought-tolerant trees, shrubs and groundcover.

3. Drought-tolerant slope planting as required by B(1) and (2), above, shall consist
of the following sizes and quantities:

   a. Trees: 30% — 24-inch box; 35% — 15-gallon; 25% - five gallon; 10% - one
gallon.

   b. Shrubs: 60% — five gallon; 40% — one gallon.

   c. Groundcover: 100% coverage from flats planted 18-inch on-
   center.

4. The approved landscape plan shall be installed on a phase by phase basis prior to
the issuance of a Certificate of Occupancy for each single-family residence to be
constructed within that phase.

C. The fuel modification zone shall be landscaped in accordance with the City’s General
Plan policies and an analysis of the landscaping means the thinning of native
combustible vegetation and the placement of fire resistant plant species as approved
by the Fire Marshal.

The Plan shall be forwarded to a Landscape Architect for review and the applicant
shall pay all fees associated with the review process. The approved landscape plan
shall be implemented /installed on a phase by phase basis prior to the issuance of a
Certificate of Occupancy for each single-family residence constructed within that
phase, or at the direction of the Fire Marshal.

15. Prior to the issuance of a Certificate of Occupancy for each single-family residence
constructed within TTM 36939, the applicant shall submit to the City for review and
approval three (3) copies of a detailed landscape and irrigation plan (comprised of
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Exhibit A
Conditions of Approval TTM 36939
Page 5 of 19

xeriscape plant material) indicating type, species and location of the following minimum number of drought tolerant, multi—branched trees on each lot adjacent to the street right—of—way (all trees shall be planted with root barriers):

- Cul-de-sac lots — 1 tree; minimum 24" box
- Interior lot — 2 trees; one 24" box, one 15—gallon
- Corner lot — 3 trees; two 24" box and one 15—gallon.
- The Plan shall be forwarded to a Landscape Architect for review and the applicant shall pay all fees associated with the review process. The approved landscape plan shall be implemented/installed on a phase by phase basis prior to the issuance of a Certificate of Occupancy for each single-family residence constructed within that phase. (Submit landscape and irrigation plans as soon as possible to allow sufficient time for a Landscape Architect to review same).
- The landscaping for the street parkways, public lots, and other public areas shall be installed prior to occupancy of the first unit.

16. A six-(6) foot high chain link fence shall be maintained around the perimeter of the site during all phases of construction, or until replace by the permanent fencing and/or walls.

17. Developer shall meet all requirements of responsible agencies, including but not limited to: Southern California Gas Company, and Southern California Edison Company.

Standard Conditions

18. The Project is required to comply with the provisions of South Coast Air Quality Management District Rule 402, A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.

19. The Project is required to comply with regional rules that assist in reducing short-term air pollutant emissions. SCAQMD Rule 403 requires that fugitive dust be controlled with best-available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. SCAQMD Rule 403 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off site. Applicable dust suppression techniques from Rule 403 are summarized below:

- Apply nontoxic chemical soil stabilizers according to manufactures’ specifications to all inactive construction areas (previously graded areas inactive for 10 days or more).
- Water active sites at least twice daily. (Locations where grading is to occur will be thoroughly watered prior to earthmoving.)
- Cover all trucks hauling dirt, sand, soil, or other loose materials, or maintain at least 0.6 m (2 ft.) of freeboard (vertical space between the top of the load and top of the
trailer) in accordance with the requirements of California Vehicle Code (CVC) Section 23114.
- Pave construction access roads at least 30 m (100 ft.) onto the site from the main road.
- Reduce traffic speeds on all unpaved roads to 15 mph or less.

The applicable Cal/Recycle Sustainable (Green) Building Program Measures are:

- Recycle/reuse at least 50 percent of the construction material that are rapidly renewable or resource-efficient, and recycled and manufactured in an environmentally friendly way for at least 10 percent of the project, as defined on the California Department of Resources Recycling and Recovery (CalRecycle) website: www.calrecycle.ca.gov

20. Prior to issuance of a grading permit, the developer shall provide to the City of Banning evidence of fully executed monitoring agreement(s) with the appropriate culturally affiliated Native American tribe(s) or band(s) for all ground disturbing activities associated with the project. If more than one tribe Federally Recognized Indian Tribe has requested monitoring, an equal rotation shall be created around the grading and ground disturbing schedule. This shall include a scope of work and a description of tribal monitoring activities.

21. In the event that previously undocumented archaeological resources are identified during earthmoving activities, further construction work in the area should be diverted or halted until the nature and significance of the find can be assessed.

22. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the County Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

23. The applicant shall file an Environmental Constraint Sheet. An Environmental Constraint Sheet means a duplicate of the final map on which are shown the Environmental Constraint Notes. This sheet shall be filed simultaneously with the final map, with the County Surveyor, and labeled Environmental Constraint Sheet in the top margin. Applicable items shall be shown under a heading labeled Environmental Constraint Notes. The Environmental Constraint Sheet shall contain the following statement:
Mitigation

24. Burrowing Owls. The project fall within the Multiple Species Habitat Conservation Plan (MSHCP). Per the MSHCP 30-day Pre-construction Burrowing Owl Survey Guidelines, an additional pre-construction survey will be required within 30 days prior to beginning of site grading. If burrowing owls are found to be present, for compliance with the MSHCP, project-specific mitigation would be developed and authorized through consultation with the City of Banning and California Department of Fish and Wildlife.

25. Any project-related effects to potentially jurisdictional streambeds will require the preparation of a Determination of Biologically Equivalent or Superior Preservation (DBESP) report for compliance with the MSHCP. In addition, permits would be required from the U.S. Army Corp. of Engineers (USACE), RWQCB, and CDFW. Any necessary mitigation would be determined through the DBESP and permitting process with the USACE and CDFW.

26. To avoid any potential effects to nesting birds protected by the Migratory Bird Treaty Act (MBTA), and the California Fish and Game Code, vegetation-clearing and preliminary ground-disturbing work should be completed outside of bird breeding season (typically February through August 31). In the event that initial groundwork cannot be conducted outside the bird breeding season, pre-construction surveys would be required within 30 days prior to construction. Should nesting birds be found, an exclusionary buffer will be established by the biologist. The buffer may be up to 500 feet in diameter, depending on the species of nesting bird found. The buffer will be clearly marked in the field by construction personnel under guidance of the biologist, and construction or clearing will not be conducted within this zone until the biologist determines that the young have fledged or the nest is no longer active.

27. Fault Setback Zone. The subdivision shall be designed with the fault setback zone as shown in the Tentative Tract Map 36939 and in accordance with the recommendations cited in the RMA Group Geologic Fault Investigation of Alquist-Priolo Zone Report dated April 8, 2014. Any deviation from the Fault Setback zone shall require Planning and City Engineer approval. Based on the requirements of
the Alquist-Priolo Act, no human habitation structures can be built within this zone, however other land uses may be permitted subject to Planning Approval.

28. Native Plant Recovery: Developer shall recover native and drought tolerant plant materials, and incorporate them into project landscaping, to provide or enhance habitat for local species to the extent possible.

29. Archaeological Monitoring. Prior to the issuance of a grading permit, the Project Proponent shall implement the following program:

a) A qualified archaeological monitor shall be retained by the Project Proponent to conduct monitoring of all grading and trenching activities and has the authority to halt and redirect earthmoving activities in the event that suspected archaeological resources are unearthed during Project construction.

b) During grading operations, a professional archaeological monitor shall observe the grading operation until such time as monitor determines that there is no longer any potential to uncover buried cultural deposits. If the monitor suspects that an archaeological resource may have been unearthed, the monitor shall immediately halt and redirect grading operations in a 100-foot radius around the find to allow identification and evaluation of the suspected resource. If the monitor determines that the suspected resource is potentially significant, the archaeologist shall notify the appropriate Native American Tribe(s) and invite a tribal representative to consult on the resource evaluation. In consultation with the appropriate Native American Tribe(s), the archaeological monitor shall evaluate the suspected resource and make a determination of significance pursuant to California Public Resources Code Section 21083.2. If the resource is significant, Mitigation Measure CR-2 shall apply.

30. Treatment Plan. If a significant archaeological resource(s) is discovered on the property, ground disturbing activities shall be suspended 100 feet around the resource(s). The archaeological monitor and a representative of the appropriate Native American Tribe(s), the Project Proponent, and the City of Banning Community Development Department shall confer regarding mitigation of the discovered resource(s). A treatment plan shall be prepared and implemented by the archaeologist to protect the identified archaeological resource(s) from damage and destruction. The treatment plan shall contain a research design and data recovery program necessary document the size and content of the discovery such that the resource(s) can be evaluated for significance under CEQA criteria. The research design shall list the sampling procedures appropriate to exhaust the research potential of the archaeological resource(s) in accordance with current professional archaeology standards (typically this sampling level is two (2) to five (5) percent of the volume of the cultural deposit). The treatment plan shall require monitoring by the appropriate Native American Tribe(s) during data recovery excavations of archaeological resource(s) of prehistoric origin, and shall require that all recovered artifacts undergo laboratory analysis. At the completion of the laboratory analysis,
any recovered archaeological resources shall be processed and curated according to current professional repository standards. The collections and associated records shall be donated to an appropriate curation facility, or, the artifacts may be delivered to the appropriate Native American Tribe(s) if that is recommended by the City of Banning. A final report containing the significance and treatment findings shall be prepared by the archaeologist and submitted to the City of Banning Community Development Department.

31. Paleontological Monitoring. Prior to the issuance of grading permits, the Project Proponent shall implement the following program:

a) A qualified paleontologist shall be on-site at the pre-construction meeting to discuss monitoring protocols.

b) The qualified paleontologist shall be empowered to temporarily halt or redirect grading activities paleontological resources are discovered.

c) In the event of a paleontological discovery the monitor shall flag the area and notify the construction crew immediately. No further disturbance in the flagged area shall occur until the qualified paleontologist has cleared the area.

d) The qualified paleontologist shall quickly assess the nature and significance of the find. If the specimen is not significant it shall be quickly removed and the area cleared.

e) If the discovery is significant the qualified paleontologist shall notify the Project proponent and the City immediately.

f) In consultation with the Project proponent and the City, the qualified paleontologist shall develop a plan of mitigation which shall include salvage excavation and removal of the find, removal of sediment from around the specimen (in the laboratory), research to identify and categorize the find, curation in the find a local qualified repository, and preparation of a report summarizing the find.

Public Works

General Requirements

32. A Public Works Permit shall be required prior to commencement of any work within the public right-of-way. The contractor working within the public right-of-way shall submit proof of a Class “A” State Contractor’s License, City of Banning Business License, and Liability Insurance. Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced as determined by the City Engineer or his/her representative.
Prior to the issuance of any grading, construction, or public works permit by the City, the applicant shall obtain any necessary clearances and/or permits from the following agencies:

- Fire Marshal (access)
- Army Corps of Engineers
- CA Fish and Game
- Public Works Department (grading permits, street improvement permits)
- Riverside County Flood Control & Water Conservation District (storm drain)
- California Regional Water Quality Control Board Colorado River Basin (RWQCB)
- South Coast Air Quality Management District (SCAQMD)

The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.

33. The following improvement plans shall be prepared by a Civil Engineer licensed by the State of California and submitted to the Engineering Division for review and approval. A separate set of plans shall be prepared for each line item listed below. Unless otherwise authorized in writing by the City Engineer, the plans shall utilize the minimum scale specified and shall be drawn on 24” x 36” Mylar film. Plans may be prepared at a larger scale if additional detail or plan clarity is desired (Note: the applicant may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors):

a. Rough/Precise Grading Plans
   1” = 40’ horizontal
   (All Conditions of Approval shall be reproduced on last sheet of set)

b. Clearing Plans
   1” = 50’ horizontal
   (Include fuel modifications zones)
   (Include construction fencing plan)

c. Erosion Control Plan, SWPPP and WQMP
   1” = 40’ Horizontal
   (Note: a, b & c shall be reviewed and approved concurrently)

d. Storm Drain Plans
   1” = 40’ Horizontal

e. Street Improvement Plans
   1” = 40’ Horizontal
   1” = 4’ Vertical

f. Signing & Striping Plans
   1” = 40’ Horizontal

g. Construction Traffic Control Plan
   1” = 40’ Horizontal
   (Major or Arterial Highways only)

h. Landscaping Plans-Streets
   1” = 20’ Horizontal
i. Water & Sewer Improvement Plans

1" = 40' Horizontal
1" = 4' Vertical

Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

All off-site plan and profile street improvement plans and signing & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.

All on-site signing and striping plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raised pavement markers at fire hydrants) and street name signs per Public Works standard plans and/or as approved by the City Engineer.
A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

34. Upon completion of construction, the Developer shall furnish the City with reproducible record drawings on Mylar film of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD files submitted to the City, revised to reflect the “As-Built” conditions.

35. All utility systems including gas, electric, telephone, water, sewer, and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with City codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired.

36. The Developer shall cause all public improvements to be constructed and accepted by the City prior to occupancy of the first unit; or, the Developer shall enter into an agreement to guarantee the construction of the public improvements as listed in the Conditions of Approval and as shown on the approved plans.

Rights of Way/Easements

37. Prior to issuance of any permit(s), the applicant shall acquire or confer property rights necessary for the construction or proper functioning of the proposed project/development. Conferred rights shall include right-of-way dedications, irrevocable offers to dedicate or grant of easements to the City for emergency services, maintenance, utilities, storm drain facilities, or temporary construction purposes including the reconstruction of essential improvements.
38. Offer to dedicate to the City of Banning for public purposes the right-of-way for Wilson Street fronting the site as an Arterial Highway; 55 feet one-half width (centerline to right-of-way). Offers of dedication shall include corner cut-off at intersections.

39. Related to COA No.36, the developer shall request the right-of-way dedication along Wilson Street fronting the Montgomery Creek Channel from the Riverside County Flood Control and Water Conservation District.

40. Offer to dedicate to the City of Banning for public purposes the right-of-way for Sunset Avenue fronting the site as an Collector Highway; 33 feet one-half width (centerline to right-of-way).

41. Offer to dedicate to the City of Banning for public purposes the right-of-way for Local Streets, including Sunrise Avenue fronting the site; 30 feet one-half width (centerline to right-of-way). Offers of dedication shall include corner cut-off at intersections.

42. Offer to dedicate to the City of Banning easements to maintain any slopes supporting public right-of-ways. Maintenance easements shall extend 10 feet beyond the toe of slope.

43. Submit a copy of the title report, closure calculations, and any separate instruments or necessary right-of-way documents to the Engineering Division for review and approval of the City Engineer prior to all improvement plans.

44. All street centerline monument ties shall be submitted to the Engineering Division.

45. Prior to the issuance of any certificates of occupancy, the applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer of dedication to the City of Banning or the Riverside County Flood Control and Water Conservation District unless such easements are expressly made subordinate to the easements to be offered for dedication to the City or RCFCID. Prior to granting any of said easements, the applicant shall furnish a copy of the proposed easement to the City Engineer for review and approval. Further, a copy of the approved easement shall be furnished to the City Engineer prior to the issuance of any certificate of use and/or occupancy.

Traffic

46. Street name signs and traffic control devices including traffic legends and traffic striping shall be installed, or relocated in accordance with Caltrans Standards and as shown on the approved plans, and/or as directed by the City Engineer.

Prior to the issuance of a grading permit or building permit, the applicant shall submit and obtain approval in writing from the Fire Marshall for the plans for all public or private access roads, drives, streets, and alleys. The plans shall include plan and sectional views and indicate the grade and width of the access road measured flow-line to flow-
line. When a dead-end access exceeds 150 feet or when otherwise required, a clearly marked fire apparatus access turnaround must be provided and approved by the Fire Marshall.

47. The intersection of Sunset Avenue and Dawn Lane shall be design in manner to mitigate sight distance issues.

Street Improvements

48. All street improvement designs shall provide pavement and lane transitions per City of Banning and Caltrans standards for transition to existing street sections.

49. Construct half-width street improvements in accordance with City standards fronting Wilson Street, Sunset Avenue and Sunrise Avenue including street lighting, curb and gutter, drive approaches, sidewalk, and asphalt concrete paving, traffic signs and striping, and any transitions. Street lights shall be installed offset of the existing street lights. Applicant’s geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.

50. Construct full-width street improvements in accordance with City standards along local streets within the project boundaries including street lighting, curb and gutter, drive approaches, sidewalk, handicap ramps, and asphalt concrete paving, traffic signs and striping, and any transitions. Applicant’s geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.

51. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.

52. All required public improvements for the project shall be completed, tested, and approved by the Engineering Division prior to issuance of any Certificate of Occupancy.

53. The channel crossing of Wilson Street over the Montgomery Creek Channel shall be designed and constructed to the ultimate width of Wilson Street as approved by the City and Riverside County Flood Control and Water Conservation District. Access and safety devices such as guard rail, chain link fence, etc., shall be provided on the north side of Wilson Street for the maintenance of “Montgomery Creek Channel” as approved by the City and Riverside County Flood Control and Water Conservation District.

Grading/Drainage Improvements

54. In accordance with the June 19, 2015 RMA GeoScience Report, the Developer shall adhere to the comments, recommendations and conditions cited in the report as to the following:
   - Existing Fill in Graded Eastern Portion of the Site.
   - General Earthwork and Grading
   - Removals and Over excavation
55. Submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval. The study and analysis shall be prepared by a civil engineer licensed by the State of California and shall incorporate the drainage area north of the proposed tract. Drainage design shall be in accordance with Banning Master Drainage Plan adopted by Riverside County Flood Control and Water Conservation District (RCFCD), RCFCD Hydrology Manual, and standard plans and specifications. The 10-year storm flow shall be contained within the street curbs, and the 100-year storm shall be contained within the street right-of-way; when this criteria is exceeded, additional drainage facilities shall be designed and constructed.

56. The project shall comply with all RCFCD requirements including, but not limited to: drainage/debris basins, drainage easements, storm drain infrastructure and design criteria. A debris basin shall be included with this project to capture debris flows as recommended by the RCFCD.

57. Concrete lined interceptor channels shall be designed and constructed along the north boundary of the proposed development as required by Grading Ordinance.

58. Submit confirmation that the project meets the requirements of the Alquist-Priolo Earthquake Fault Zoning Act.

59. If the site is located in a Flood Area as identified in Flood Insurance Rate Map dated August 28, 2008 the developer is responsible for providing a certification by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

60. The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of
concentrated or diverted storm flows. The project shall accept and convey storm flows from the adjacent property to the north.

61. The applicant shall comply with Chapter 13.24 “Stormwater Management Systems” of the Banning Municipal Code (BMC) and Title 18 “Grading, Erosion and Sediment Control” of the California Building Code related to excavation and grading; and the State Water Resources Control Board’s orders, rules and regulations.

62. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.

The applicant’s SWPPP shall be reviewed and approved by the City Engineer prior to any permit issuance. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.

Note: The SWPPP may be supplemented with an Erosivity Waiver, if approved by the State Water Resource Control Board.

All erosion and sediment control BMPs proposed by the applicant shall be designed using the CASQA BMP handbook and approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project.

63. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California.

64. Prior to the issuance of any building permit(s), a precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any grading activity.

65. Prior to issuance of any grading or building permit, a Project-Specific Water Quality Management Plan (WQMP) shall be reviewed and approved in accordance with California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2013-0011.

• At a minimum, all development will make provisions to store runoff from rainfall events up and including the one-hundred year, three hour duration. Post development peak urban runoff discharge rates shall not exceed pre-development peak urban runoff discharge rates.

66. Prior to the issuance of a building permit for any building lot, the applicant shall provide a lot pad certification stamped and signed by a qualified civil engineer or land surveyor.
Exhibit A
Conditions of Approval TTM 36939
Page 16 of 19

Each pad certification shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. Such pad certification shall also list the relative compaction of the pad soil.

67. Obtain Letter of Map Revision (LOMR) from FEMA.

Landscaping Public Right of Way

68. The Developer shall prepare a water conservation plan to reduce water consumption in the landscape environment using xeriscape principles. “Xeriscape” shall mean a combination of landscape features and techniques that in the aggregate reduce the demand for and consumption of water, including appropriate low water using plants, non-living ground-cover, a low percentage of turf coverage (limited to 25% of the planted area), permeable paving and water conserving irrigation techniques and systems. A low water-using drought tolerant plant includes species suited to our climate, requiring less water in order to grow well.

69. An automatic sprinkler system and landscaping shall be installed on a phase by phase basis, prior to occupancy of the first unit of that phase. The landscaping shall include the parkway fronting Sunrise Avenue, Wilson Street and the interior streets as they are included in each phase of construction. The system within the Landscape Maintenance District shall include a landscape controller, a separate water meter and electric meter, and plantings as approved by the Community Development Director. Landscaping plans and specifications shall be reviewed and approved by the City Engineer.

70. The Developer shall participate in a Landscape Maintenance District to be established by the City of Banning for the maintenance of landscape within the public right-of-way and the open space area within the development’s boundary along Wilson Street and Lots A, B, and C. The Developer shall landscape and maintain said area until the City accepts it into the Landscape Maintenance District No. 1.

71. Landscape improvements shall be certified by a licensed landscape architect or licensed landscape contractor as having been installed in accordance with the approved detailed plans and specifications. The applicant shall furnish said certification, including an irrigation management report, for each landscape irrigation system and any other required implementation report determined applicable, to the City Engineer for review and approval.

Trash/Recycling

72. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City’s franchised solid waste hauler, Waste Management of the Inland Valley at 1-800-423-9986, for disposal of construction debris.

Fees
73. Plan check fees for professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the fee schedule in effect at the time of submittal.

74. A fee shall be paid to the Riverside County Flood Control and Water Conservation District to perform plan checking for the proposed project.

75. Public Works Inspection fees shall be paid prior to issuance of any permits in accordance with the fee schedule in effect at time of time of scheduling.

76. Water and sewer connection fees including frontage fees and water meter installation charges shall be paid on a per lot basis at the time of building permit issuance in accordance with the fee schedule in effect at that time.

77. A plan storage fee shall be paid for any engineering plans that may be required prior to issuance of certificate of occupancy in accordance with the fee schedule in effect at the time the fee is paid.

78. A Traffic Control mitigation fee shall be paid prior to issuance of building permits.

79. Payment of all associated development impact fees in effect at the time of building permit issuance.

**Final Parcel Map**

80. Security for the construction of public improvements in accordance with Government Code Section 66499 shall be as follows:

- Faithful Performance Bond - 100% of estimated cost
- Labor and Material Bond - 100% of estimated cost
- Monumentation Bond - $20,000.00

_Securities for the public improvements shall be on file with the City Clerk prior to scheduling the final map for approval by City Council. Unit prices for bonding estimates shall be those specified or approved by the City Engineer._

81. Submit a copy of the title report, closure calculations, and any separate instruments or necessary easement or right-of-way documents to the Engineering Division for review and approval of the City Engineer prior to final map approval.

82. A map of the proposed subdivision drawn at 1"=200' scale showing the outline of the streets including street names shall be submitted to the City to update the city atlas map.

83. An original Mylar of the final map (after recordation) shall be provided to the City for the record files.
84. A record of all street centerline monument ties shall be submitted to the Engineering Division upon completion of improvements or prior to release of Monumentation Bond.

**Water**

85. Design and construct the water system (mains, laterals, hydrants, valves, blowoffs, airvacs, etc.) according to the City of Banning standards. The water mains shall be a minimum of eight inches in diameter ductile iron pipe and shall be designed to be a “looped” system. The applicant is directed to review the water plans previously approved with Tract Map No. 30642.

86. Pay all applicable water connection and frontage fees per Chapter 13.08 “Water, Sewer and Electricity Rates” of the Banning Municipal Code prior to the issuance of a building permit.

**Sewer**

87. Design and construct the sewer system (mains, laterals, manholes, etc.) according to the City of Banning standards. The applicant is directed to review the sewer plans previously approved with Tract Map No. 30642.

88. All sewer lines to be constructed within the Public right-of-way shall be extra strength Vitrified Clay Pipe. All sewer laterals shall be a minimum of 4 inches in diameter and all sewer mains shall be a minimum of 8 inches. Final sizes shall be approved by the City Engineer.

89. A sewer check valve shall be provided for each building with a finish pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.

**Fire Department**

90. For residential areas, approved standard fire hydrants, located at each intersection, with no portion of any lot frontage more than a maximum of 500 feet from a hydrant. Minimum fire flow for all residential structures shall be 1000 GPM for a 2-hur duration at 20 psi residual operating pressure, which must be available before any combustible material is placed on the construction site.

91. The required water system, including fire hydrants shall be installed and accepted by the appropriate water agency prior to any combustible building material being placed on an individual lot. Two sets of water plans are to be submitted to the Fire Department for approval.

92. Applicant/Developer shall mount blue dot retro-reflectors pavement markers on private streets, public streets and driveways to indicate location of the fire hydrant. It should be eight (8) inches from centerline to the side that the fire hydrant is on, to identify fire hydrant locations.
93. Residential fire sprinklers are required in all one and two family dwellings per the California Residential Code. Contact the Riverside County Fire Department for the Residential Fire Sprinkler Standard.

94. Fire Apparatus access road and driveways shall be in compliance with the Riverside County Fire Department Standard number 06-05 (located at www.rvzfire.org). Access lanes will not have an up, or downgrade of more than 15%. Access roads shall have an unobstructed vertical clearance not less than 13 feet and 6 inches. Access lanes will be designed to withstand the weight of 70 thousand pounds over 2 axles. Access will have a turning radius capable of accommodating fire apparatus. Access lane shall be constructed with a surface so as to provide all weather driving capabilities.

95. Roadways may not exceed 1320 feet without secondary access. This access may be restricted to emergency vehicles only however, public egress must be unrestricted.

96. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with approved provision for the turn-around capabilities of fire apparatus.

97. Any turn-around requires a minimum of 42-foot turning radius.

98. The minimum dimension for gates is 20 feet clear and unobstructed width and a minimum vertical clearance of 13 feet 6 inches in height. Any gate providing access from a road shall be located at least 35 feet setback from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road. Where a one-way road with a single traffic lane provides access to a gate entrance, a 38-foot turning radius shall be used.

99. Gates may be automatic or manual and shall be equipped with a rapid entry system (KNOX). Plans shall be submitted to the Fire Department for approval prior to installation. Automatic gate pins shall be rated with a shear pin force, not to exceed 30 pounds. Gates activated by the rapid entry system shall remain open until closed by the rapid entry system. Automatic gates shall be provided with backup power.
Record Gazette
218 N. Murray St.

Proof of Publication
(2015.5 C.C.P.)

162416 PH:N TTM 36939

State of California
) ss.
County of Riverside

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, 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:

February 15, 2019


NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning City Council, to be held on Tuesday, February 26, 2019, at 6:00 p.m. in the Council Chambers, City Hall, 90 East Ramsey Street, Banning, California, to consider granting a twelve (12) month time extension for Tentative Tract Map 36939 (TTM 36939). The proposed project site is located generally, north of Wilson Street between Sunset Avenue and Sunrise Avenue, APN 535-430-001 thru 021, 535-431-001 thru 015, 535-432-001 thru 017, 535-070-004 thru 008.

Information regarding the request for a twelve (12) month extension of time for Tentative Tract Map 36939 (TTM 36939) can be obtained by contacting the City's Community Development Department at (951) 923-3125, or by visiting City Hall located at 90 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 to 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 938, 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 City Council makes its decision on the proposal, or, you or someone else raised at the public hearing or written correspondence delivered to the city clerk at, or prior to, the hearing (California Government Code, Section 66509).

BY ORDER OF THE INTERIM COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF
BANNING, CALIFORNIA
Maryann Marks, AICP
Interim Community Development Director
Dated: February 13, 2019
Published: February 15, 2019
Published in
The Record Gazette
No. 162416
02/15/2019

Executed on: 02/15/2019
At Banning, CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Signature

Cena Rivera
CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Maryann Marks, Interim Community Development Director
MEETING DATE: February 26, 2019

SUBJECT: ADOPTION OF A CATEGORICAL EXEMPTION, APPROVING CONDITIONAL USE PERMIT 18-8003 TO ALLOW A BAR AND DRINKING ESTABLISHMENT WITH OUTDOOR SEATING AREA, IN A BUSINESS KNOWN AS FINESSE LOUNGE, APPROVING A BUSINESS PERMIT REQUIRED UNDER CHAPTER 5.48 FOR PUBLIC DANCES AND POOL ROOMS, AND A FINDING OF PUBLIC CONVENIENCE OR NECESSITY FOR THE ISSUANCE OF A LICENSE BY THE CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FOR A PROPOSED DRINKING AND CATERING ESTABLISHMENT IN THE DOWNTOWN COMMERCIAL (DC) ZONE ON THE PROPERTY IDENTIFIED AS 144 WEST RAMSEY ST (APNS: PORTIONS OF 540-203-009, 007)

RECOMMENDED ACTION:

Staff recommends that the City Council:

1. Adopt the Resolution 2019-XX (Attachment 1), recommending that the City Council take the following actions:
   
   I. Adopt a Categorical Exemption, pursuant to Section 15301 (Existing Facilities);
   
   II. Approve Conditional Use Permit 18-8003 for a Bar/Lounge in the Downtown Commercial zoning district;
   
   III. Approve a Business Permit required under Section 5.48 of the Banning Municipal Code for Public Dances and a Pool table.
   
   IV. Approve a Determination that Public Convenience or Necessity would be served by the issuance an "ABC" type 48 license for 'On-Sale General for Public Premises’ and type "58" license 'Caterer's Permit'.
PROJECT/APPLICANT INFORMATION:

Project Applicant: Old Eagle Enterprises, LLC
46775 Morongo Road
Banning, CA 92220

Project Location: 144 West Ramsey

BACKGROUND:

The applicant is requesting approval of a Conditional Use Permit for a bar to be located in the Downtown Commercial (DC) zoning district, a Business Permit for dancing and a pool table, and a Determination of Public Convenience or Necessity to obtain an on-sale ABC license for Finesse Lounge, a proposed bar with dining and catering services. The proposed project is located in an existing building in the Downtown Commercial (DC) zone on the property identified as 144 West Ramsey St, APN 540-203-009, 007. The applicant's site plan shows use of the adjacent parcel to the south for a patio and landscaped game area. The current owner of both parcels has leased the patio space as well as the 2,637 sf of existing building space to the applicant.

On January 16, 2019, the City Planning Commission considered Resolution No 2019-02 and unanimously recommended that the City Council approve the application for Finesse Lounge to operate the 2,637 square foot bar with dining, dancing, a pool table and catering services. During discussion, an additional Condition of Approval was requested to be added requiring the applicant to work with staff to light the alley between the buildings for the safety of pedestrian use from the parking lots in the rear. That condition has been added at the end of the Conditions of Approval.

Conditional Use Permit 18-8003

The project is located in the Downtown Commercial (DC) zoning district. Bars and breweries are permitted with approval of a Conditional Use Permit by the Planning Commission.

Business Permit (BMC 5.48)

Per Banning Municipal Code section 5.48.010 Permit-Required, no person shall conduct a public dance where intoxicating liquor or beer or wine are then being sold, offered for sale, distributed or given away, or conduct a room or place where billiards or pool is played, or a bowling alley, shooting gallery or similar place without first obtaining a permit so to do.

The applicant has requested in writing, City Council approval of the required business permit per section 5.48 of the Banning Municipal Code.

Public Convenience or Necessity

The proposed project will require State Alcoholic Beverage Control License Type 48, On-Sale General for Public Premises. The applicant has applied for a liquor license through
the Department of Alcoholic Beverage Control (ABC). ABC is requiring approval of a finding Public Convenience or Necessity by the local governing body (City Council) prior to issuing a type 48 license due to an overconcentration of for-sale licenses in the census tract. A Map of the census tract licenses is included as Attachment 4.

If an applicant is applying for a license to sell alcoholic beverages at a premises where an undue concentration exists, they are required to be denied a license by ABC unless the local governing body of the area determines that public convenience or necessity would be served by the issuance of the license. ABC has made the determination of over concentration and is requesting confirmation that the City has determined that issuing a license to the applicant will serve the public convenience or necessity.

**JUSTIFICATION**

Under the provisions of the Zoning Code, a bar is permitted within the Downtown Commercial (DC) zoning district with the approval of a Conditional Use Permit. The applicant is proposing to establish Finesse Lounge, a bar with dining, dancing, a pool table and catering services. The existing building is currently vacant. The Downtown Commercial (DC) zoning district is the City’s traditional commercial core where bars and breweries are permitted with approval of a Conditional Use Permit by the Planning Commission. Downtown has special significance to the community because small scale commercial retail and office uses, services, restaurants, and entertainment serve as the primary uses in this district and offer social opportunities for entertainment, community interaction, food and relaxation.

No exterior improvements are proposed in the front of the building other than the addition of a sign which will be submitted for review and approval at a later date and lighting for pedestrian access through the side alley. Interior floor plans and design images provided to the City show an upscale urban style décor which will enhance the downtown revitalization experience. The addition of the use of the patio and adjacent lot as a landscaped game area, activates the alley and provides potential for a future network of alleys as public spaces throughout the downtown.

The request in question is located within Census Tract No. 0441.01 which includes the approximately two-mile linear area bounded by Sunset and San Gorgonio on the west and east, the 10 freeway on the south and Wilson Street on the north. The tract presently has a total of eleven (11) active On-Sale licenses. Eight (8) of these licenses are restaurants serving only beer and wine. Two (2) are restaurants with licenses that permit general alcohol and one is the American Legion.

Staff has evaluated whether or not the sale of alcohol within the bar may have any adverse impacts upon the site, the surrounding land uses or the community as a whole. Considerations included:

- Would an additional facility in the downtown area selling alcohol have an adverse impact upon the specific area or the community as a whole;
- Could the bar in question survive as a business without the sale of alcohol; and
- Would denial of the request force the relocation of the proposed business outside of the census tract or out of the city.
Staff determined that the proposed location in the Downtown, within an area which permits restaurants serving alcohol by right, would have a minimal impact to the surrounding properties and that the impacts can be mitigated by the Conditions of Approval. In order to apply the most conservative standards, staff has applied the required Conditional Use Permit conditions and associated findings for alcoholic beverage sales to the Conditions of Approval for this project. Additionally, the potential for impacts is limited by the size of the bar and operating conditions. Without an ABC license the applicant asserts that the bar would suffer an unfair disadvantage and would not be able to operate.

We are informed by the applicant, that offering the sale of alcohol to patrons of the bar is an integral part of the business’s success. The Downtown core is an appropriate location and will benefit from the influx of activity and additional sales revenue. The bar is a benefit to the community adding to the variety of entertainment opportunities in the community, contributing to the redevelopment of the Downtown area, and enhancing the environment by revitalizing an underutilized vacant space.

The Banning Police Department was notified of the project upon submittal of the application. They provided a condition of approval requiring an alarm system and a 24-hour digital video surveillance system. They also supplied an Incident Report which is included within the planning commission packet. The report demonstrates that very little criminal activity has occurred in the area over the past 14 years with the existing establishments serving alcohol. The Police Department is not opposed to the project.

Additional details, including findings, are provided in the Planning Commission staff report which is included as Attachment 2.

ENVIRONMENTAL DETERMINATION:

In accordance with §15301 (Existing Facilities) a Class 1 Categorical Exemption of the California Environmental Quality Act (CEQA), the project is exempt from further environmental review. A Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

FISCAL IMPACT

Development of the property would result in increased property values and associated increases in property taxes. The development contributes to the revitalization of the downtown commercial core.

ATTACHMENTS:

1. Resolution 2019-XX
2. Planning Commission Staff Report
4. Comment Letters Received
5. Public Hearing Notice
Approved by:

Douglas Schulze
City Manager
RESOLUTION NO. 2019-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING A CATEGORICAL EXEMPTION, APPROVING CONDITIONAL USE PERMIT 18-8003 TO ALLOW A BAR AND DRINKING ESTABLISHMENT WITH OUTDOOR SEATING AREA FOR A BUSINESS KNOWN AS FINESSE LOUNGE, APPROVING A BUSINESS PERMIT REQUIRED UNDER CHAPTER 5.48 FOR PUBLIC DANCES AND POOL, AND A FINDING OF PUBLIC CONVENIENCE OR NECESSITY FOR THE ISSUANCE OF AN ABC LICENSE BY THE CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FOR A PROPOSED BAR/NIGHTCLUB IN THE DOWNTOWN COMMERCIAL (DC) ZONE ON THE PROPERTY IDENTIFIED AS 144 WEST RAMSEY ST (APNS: PORTIONS OF 540-203-009, 007)

WHEREAS, an application for Conditional Use Permit 18-8003 including a request for a drinking and catering establishment has been duly filed by:

Applicant: Old Eagle Enterprises, LLC
Owner: Don M. Peterson and Ixchel Peterson
Authorized Agent: Old Eagle Enterprises, LLC
Project Location: 144 West Ramsey Street
APN Information: 540-203-009, 007

WHEREAS, the City Council has the authority pursuant to Chapter 17 of the Banning Municipal Code to take action on Conditional Use Permit 18-8003 for a drinking and catering establishment in the Downtown Commercial Zoning District;

WHEREAS, the California Department of Alcoholic Beverage Control requires a finding of Public Convenience or Necessity be submitted by the local governing authority, (City Council);

WHEREAS, the City Council is required to approve a Business License for Public Dances, Poolrooms, Bowling Alleys and Shooting Galleries pursuant to Chapter 5.48 of the Banning Municipal Code.

WHEREAS, in accordance with Government Code Sections 65353, 65355 and 65090, on February 15, 2019 the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300 feet of the project of the holding of a public hearing at which the project would be considered;

WHEREAS, in accordance with Government Code Section 65353, on January 16, 2019 the Planning Commission held a duly-noticed public hearing to consider Conditional Use Permit 18-8003, a finding of Public Convenience or Necessity, and a Business
License for Public Dances, Poolrooms, Bowling Alleys and Shooting Galleries and recommended that the City Council approve Conditional Use Permit 18-8003, a finding of Public Convenience or Necessity, and a Business License for Public Dances, Poolrooms, Bowling Alleys and Shooting Galleries.

WHEREAS, on February 26, 2019 the City Council held a duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Conditional Use Permit No. 18-8003, a finding of Public Convenience or Necessity, and a Business License for Public Dances, Poolrooms, Bowling Alleys and Shooting Galleries; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Conditional Use Permit No. 18-8003 and determined that, pursuant to CEQA Section 15301 (Existing Facilities) it is Categorically Exempt because the proposed use is located within an existing structure and an existing outdoor patio area and does not contain any unusual features that would cause potential significant environmental effects.

NOW THEREFORE, the City Council of the City of Banning does Resolve, Determine, and Finds as follows:

SECTION 1: Required Findings for California Environmental Quality Act and Multiple Species Habitat Conservation Plan

The City Council of the City of Banning does hereby make the following environmental findings and determinations in connection with the approval of the Project:

A. In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities - Class 1 Categorical Exemption), the project is exempt from further environmental review. A Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

B. Staff has analyzed proposed Conditional Use Permit No. 18-8003 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15301 due to the fact that the proposed project meets the required criteria to qualify as "existing facilities" as defined by Section 15301 and of the CEQA Guidelines. The City Council has reviewed staff’s determination of exemption, and based on its own independent judgment, concurs in the staff’s determination of exemption.

C. Multiple Species Habitat Conservation Plan (MSHCP). The project is not subject to MSHCP as the project is an existing facility.

SECTION 2: Required Findings for Conditional Use Permit 18-8003:

Section 17.52 of the City of Banning Zoning Ordinance requires each Conditional Use Permit application shall be analyzed to assure that the application is consistent with the
The intent and purpose of this chapter, the policies and programs of the General Plan, and the Development Standards and Guidelines of the district in which it is located. The following findings are provided in support of the approval of Conditional Use Permit No. 18-8003:

**Finding No. 1:** The proposed use is consistent with the General Plan;

**Finding of Fact:** Conditional Use Permit 18-8003 is consistent with the General Plan Land Use Element Policy which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands." The land-use designation of Downtown Commercial allows small scale commercial retail and office uses, services, restaurants, and entertainment as the primary uses in this designation. Further, Conditional Use Permit 18-8003 is consistent with General Plan Economic Development Policy which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues." Approval of the permit would allow the applicant to promote business diversity while providing an economic benefit to the City.

**Finding No. 2:** The proposed use is conditionally permitted within the subject land use district and complies with all the applicable provisions of this Ordinance;

**Finding of Fact:** Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses, of Title 17 of the Municipal Code, classifies 'Bars and Drinking Establishments', as conditionally permitted uses. Section 17.12.050 Use Specific Standards provides specific provisions for the Alcohol Beverage Control "ABC" Licenses and these provisions have been addressed in this approval as well.

**Finding No. 3** The proposed use would not impair the integrity and character of the land use district in which it is to be located;

**Finding of Fact:** The proposed use will provide a new and upscale use that will complement existing restaurants and other businesses in the vicinity of the downtown area and will provide a desirable new use for residents and visitors to the City.

**Finding No. 4** The subject site is physically suitable for the type and intensity of the land use being proposed;

**Finding of Fact:** The subject site currently consists of a vacant building and the applicant is not proposing any significant exterior changes to the building. Furthermore, the small scale commercial retail, office uses,
services, restaurants, bars, and entertainment are the primary uses in the Downtown Commercial zoning district.

Finding No. 5: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;

Finding of Fact: The site is served by public and private utilities, including the City's water and electrical utilities. The site is accessed and served from West Ramsey Street which is an existing developed roadway with existing utilities.

Finding No. 6: There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics;

Finding of Fact: The minor tenant improvements to the building to accommodate the sale for alcohol related beverages, was reviewed pursuant to the California Environmental Quality Act (CEQA). The tenant improvements to accommodate alcohol related inventory qualifies for a Class 1 (Existing Facilities) Categorical Exemption.

Finding No. 7 The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

Finding of Fact: The proposed use will not have a negative impact to the environment or natural resources and will complement existing businesses. Restaurants and the theater are located in close proximity and the proposed use will serve as a further draw to the downtown core. Sales of alcohol are regulated by the State of California, Department of Alcoholic Beverage Control (ABC), the applicant must maintain a valid license to be compliant with ABC. If determined for good cause that the continuance of such license would be contrary to the public welfare or morals ABC is authorized to suspend or revoke any license to sell alcoholic beverages. Furthermore, the City of Banning Police Department has provided an incident report that demonstrates that this is not a high crime area.

SECTION 2: Additional Specific Use Findings for Conditional Use Permit 18-8003:

Section 17.12 of the City of Banning Zoning Ordinance requires businesses seeking an Alcohol Beverage Control license shall be analyzed to assure that the proposed project is consistent with the intent and purpose of this chapter, the policies and programs of the General Plan, and the Development Standards and Guidelines of the district in which it is located. The following findings are provided in support of the approval of Conditional Use Permit No. 18-8003:

Finding No. 1: Establishments shall not be located within 500 feet of any school or public park within the City;
Finding of Fact: Staff has determined that the proposed location is not located within 500 feet of any school or public park within the City.

Finding No. 2: The license application shall be reviewed by the police department prior to Planning Commission approval;

Finding of Fact: The Banning Police Department has reviewed the project and provided an incident report for the area. This report demonstrated that very little criminal activity has been experienced in the area for the last 14 years and is attached to the Staff Report. No negative information has been provided by the Police Department.

SECTION 3: Required Findings for Public Dance and Pool Table Permit:

Section 5.48.010 of the City of Banning Municipal Code requires any place with public dancing where intoxicating liquor or beer or wine are being sold, offered for sale, distributed or given away, or conduct a room or place where billiards or pool is played, to obtaining a permit to do so. The following findings are provided in support of the approval of a Public Dance and Pool Table Permit:

Finding No. 1: That the applicant is morally responsible, has a good reputation and has never been convicted of any felony or offense against the decency and morals of the community.

Finding of Fact: The applicant is a well-known upstanding community member who was interviewed by City Council and selected to represent City interests on the Parks and Recreation Committee. ABC requires a background check to provide clearance from criminal offenses prior to issuing a n "ABC" license.

Finding No. 2: That such activity set forth in the application will not constitute a menace to the public health, safety and welfare of the people of the city or the adjoining neighborhood.

Finding of Fact: The City of Banning Police Department provide the criminal history of the area for the past 14 years. The neighborhood has 11 existing locations that have similar uses and there is no history of excessive crime in the area. It can be expected that this will not create any additional criminal activity that would impact the health, safety and welfare of the surrounding neighborhoods.

Finding No. 3: That the conduct of such activity set forth in the application, at the proposed location, is not likely to result in the disturbance of the peace and quiet of the neighborhood, constitute a nuisance or create a substantial traffic problem.

Finding of Fact: The City of Banning Police Department provide the criminal history of the area for the past 14 years. The neighborhood has similar
existing uses that do not create neighborhood disturbance or traffic issues. The applicant agrees to abide by all applicable noise control regulations of the city of Banning Municipal Code.

SECTION 4: Required Findings for a Determination of Public Convenience or Necessity:

In accordance with Section 23817.7(3) of the California Business and Professions Code the following findings are made regarding the determination of Public Convenience or Necessity:

Finding No. 1: (a) Notwithstanding Section 23817.5, the California Department of Alcoholic Beverage Control ("Department") may approve an application for an on-sale license in areas covered by Section 23817.5, if the applicant shows that public convenience or necessity would be served by the issuance, and where all of the following conditions are found to exist:

A. The applicant premises are located in a crime reporting district that is below that specified pursuant to paragraph (1) of subdivision (a) of Section 23958.4. In considering an application, the department may take into account adjacent crime reporting districts, if the applicant premises are located within 100 feet of the boundaries of any adjacent district. The department shall use an average of reported crimes in the crime reporting district in which the premises are located and reported crimes in any adjacent crime reporting district, if the total of crimes reported in the adjacent district or districts is greater than the crime reporting district in which the premises are located.

B. The applicant premises are located in an area that falls below the concentration level provided in paragraph (3) of subdivision (a) of Section 23958.4.

C. The local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines that public convenience or necessity would be served by the issuance.

(b) The department may impose reasonable conditions on a licensee as may be needed in the interest of the public health, safety, and welfare regarding signing, training for responsible beverage sales and hours, and mode of sale.

Finding of Fact: The area is not in a high crime area as determined by the Banning Police Department Incident Report. The project will generate jobs and tax revenue for the City and the project will assist in the revitalization of the Downtown area. Staff has applied the required Conditional Use Permit conditions and associated findings for alcoholic beverage sales to the Conditions of Approval for this project.

SECTION 5: City Council Action

The City Council hereby takes the following action:
Approval of Conditional Use Permit No. 18-8003, Business License, and Determination of Public Convenience or Necessity, with Conditions. Based on the foregoing, and all other evidence in the record, the City Council of the City of Banning approves Conditional Use Permit No. 18-8003, to allow a bar and drinking establishment with outdoor seating area, approve a business permit required under Chapter 5.48 of the Banning Municipal Code for public dances and pool, and make a determination of public convenience or necessity for the issuance of an "ABC" license by the California Department of Alcoholic Beverage Control (APNs: Portions of 540-203-009, 007), subject to the attached Conditions of Approval.

PASSED, APPROVED AND ADOPTED this 26th day of February, 2019.

________________________________________
Arthur L. Welch, Mayor
City of Banning

ATTEST:

________________________________________
Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

________________________________________
Kevin Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2019-03 was duly adopted at a regular meeting of the City Council of the City of Banning held on the 26th day of February, 2019 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________________
Daryl Betancur, Deputy City Clerk
City of Banning, California
CITY OF BANNING
Planning Commission Report

MEETING DATE: January 16, 2019
TO: Planning Commission
FROM: Maryann Marks, AICP,
Interim Community Development Director
PREPARED BY: Mark De Manincor, Contract Planner
Adrianna Ortiz, Contract Planner
SUBJECT: CONDITIONAL USE PERMIT NO. 18-8003
FINESSE LOUNGE
144 WEST RAMSEY STREET

APPLICANT’S REQUEST:
The applicant, Old Eagle Enterprises, LLC, is requesting approval of a Conditional Use Permit, a determination of public convenience and necessity, and approval of Business Permit per Banning Municipal Code 5.48. Old Eagle Enterprises, LLC, proposes to operate a 2,637 square foot bar with dining, dancing, poolroom and catering services. The proposed project is located in an existing building in the Downtown Commercial (DC) zone on the property identified as 144 West Ramsey St, APN 540-203-009, 007.

RECOMMENDATION:

That the Planning Commission adopt Resolution No. 2019-02 (Attachment 1):

I. Recommending the City Council adopt a Categorical Exemption, pursuant to Section 15301 (Existing Facilities); and
II. Recommending the City Council approve Conditional Use Permit 18-8003 for a Bar/Lounge in the Downtown Commercial zoning district; and
III. Recommending the City Council approve a determination that public convenience or necessity would be served by the issuance an ABC type 48 license for ‘On-Sale General for Public Premises’ and type 58 license ‘Caterer’s Permit’; and
IV. Recommending the City Council approve a business permit required by Section 5.48 of the Banning Municipal Code for Public Dances, Poolrooms, Bowling Alleys and Shooting Galleries.
APPLICANT INFORMATION:

Project Location: 144 West Ramsey

APN Information: 540-203-009, 007

Project Applicant: Old Eagle Enterprises, LLC
46775 Morongo Rd.
Banning, CA 92220

Property Owner: Don M. Peterson and Ixchel Peterson
494 Weather Way
Banning, CA 92220

PROJECT BACKGROUND AND DESCRIPTION:

Subject Site

The applicant is requesting approval of a Conditional Use Permit for Finesse Lounge, a proposed bar with dining and catering services to be located at 144 West Ramsey St, APN 540-203-009. The project site is a 7,725 square foot lot that includes an existing building occupying the entire lot. The building is currently vacant. The South section of the parcel is adjacent to the existing patio area located on parcel 540-203-007. The current owner of both parcels has leased the patio space and 2,637 sf. of the existing building space to the applicant.

The site is located within the Downtown Commercial (DC) zoning district, wherein bars and breweries are permitted with approval of a Conditional Use Permit by the Planning Commission. The Downtown Commercial (DC) zoning district is the City’s traditional commercial core, and has special significance to the community because small scale commercial retail and office uses, services, restaurants, and entertainment serve as the primary uses in this district.

Land Use Summary Table

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Designation</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Site</td>
<td>Existing Vacant Building</td>
<td>Downtown Commercial</td>
<td>Downtown Commercial</td>
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<tr>
<td>North</td>
<td>Office Building</td>
<td>Downtown Commercial</td>
<td>Downtown Commercial</td>
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<tr>
<td>South</td>
<td>Church</td>
<td>Downtown Commercial</td>
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<td>East</td>
<td>Restaurant and Vacant Office</td>
<td>Downtown Commercial</td>
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<tr>
<td>West</td>
<td>Retail Shop</td>
<td>Downtown Commercial</td>
<td>Downtown Commercial</td>
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</table>
PROPOSAL AND ANALYSIS

The Finesse Lounge will occupy the 2,637 square foot building space and the 1,250 square foot patio to the south. Entertainment includes a dance floor, pool tables, and corn-hole. The Finesses Lounge proposed hours of operation are 10:00 a.m. to 2:00 a.m. seven days a week.

Conditional Use Permit

Table 17.12.020 “Permitted, Conditional and Prohibited Commercial and Industrial Uses” of Title 17 of the Zoning Code requires that a Conditional Use Permit be approved by the Planning Commission for both Bars and Drinking Establishments in the Downtown Commercial zoning district. In order to apply the most conservative standards, staff has applied the required Conditional Use Permit conditions and associated findings for alcoholic beverage sales to the analysis for this project. Those conditions include the following standards: (a) Establishments shall not be located within 500 feet of any school or public park within the City; and, (b) The license shall be reviewed by the police department prior to planning commission approval.

The Banning Police Department was notified of the project upon submittal of the application and no letter of approval or denial has been received. In response to their review, they did provide the attached Incident Report which demonstrates that very little criminal activity has occurred in the area over the past 14 years. Since we have not received any negative information from the Police Department, we can conclude that they are not opposed to the project.

Additionally, the Department of Alcoholic Beverage Control is requiring approval of a finding of public convenience or necessity by the local governing body (City Council) prior to issuing a type 48 license. Therefore, the Planning Commission will be the recommending body, recommending to the City Council, consideration of the project and possibly a finding of public convenience or necessity.

Parking Requirements

Per code section 17.24.020 Applicability, all new projects, redevelopment projects, and project modifications which add twenty-five percent or more to a structure’s building area are required to conform to standards and regulations related to off-street parking, setbacks, public street improvements, storage, fences, and so forth. The applicant’s proposal includes approval of a use, not an expansion of the building area.

The parking requirements for the Downtown Commercial zone are specified under 17.12.050 (provided for informational purposes only for the proposed use):

17.12.050 (H) (4) (b) Parking for commercial land uses shall be 1 space per 300 square feet of building area.
A City-owned parking lot with 36 parking spaces is located adjacent to the project site, and 57 additional city owned public parking spaces are available in close proximity to the north and west. The reported 2,637 square foot building area would require 9 spaces. Staff finds that there is adequate parking available to patrons of this business as well as other nearby businesses.

The proposed business will provide a new venue that will complement existing businesses and restaurants in the immediate area. The existing businesses include Wings Garden Cafe and historic Fox Theatre. Finesse Lounge will help to create a destination location within the City that will attract both residents and visitors.

A conditional use permit review requires a determination as to whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use against any negative or undesirable impact which it may cause. The limits which staff is recommending include conditions that help make the use compatible with the existing and nearby land uses.

Public Convenience or Necessity

If an applicant is applying for a license to sell alcoholic beverages at a premises where an undue concentration exists, they are required to be denied a license by the Department of Alcoholic Beverage Control unless the local governing body of the area determines that public convenience or necessity would be served by the issuance of the license. The Department of Alcoholic Beverage Control has made the determination of over concentration and is requesting confirmation that the City has determined that issuing a license to the applicant will serve the public convenience or necessity.

Staff believes that issuing a license will serve the community by providing jobs, tax revenue and assist in the revitalization of the downtown area.

The applicant has submitted an application to ABC for type 48 license for 'On-Sale General for Public Premises' (Bar, Night Club) authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. In addition, it authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.

The applicant has also applied for type 58 license 'Caterer's Permit' with ABC. Catering Authorization (Form ABC-218) authorizes Type 47, 48, 51, 52, 57, 75 and 78 licensees (and catering businesses that qualify under Section 24045.12) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events. Type 47, 48 and 57 licensees may cater alcoholic beverages at any ABC-approved location in the State. All licensees wishing to cater alcoholic beverages must obtain prior written authorization from the Department for each event. At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to
the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee’s license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399 and Rule 60.5 California Code of Regulations)

Business Permit (BMC 5.48)

Per Banning Municipal Code section 5.48.010 Permit-Required, no person shall conduct a public dance where intoxicating liquor or beer or wine are then being sold, offered for sale, distributed or given away, or conduct a room or place where billiards or pool is played, or a bowling alley, shooting gallery or similar place without first obtaining a permit so to do.

The applicant has requested in writing, City Council approval of the required business permit per section 5.48 of the Banning Municipal Code.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

In accordance with §15301 (Existing Facilities) a Class 1 Categorical Exemption of the California Environmental Quality Act (CEQA), the project is being exempt from further environmental review. A Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

Multiple Species Habitat Conservation Plan (MSHCP).

The project is not subject to MSHCP as the project is an existing facility and no new exterior improvements are identified.

PUBLIC COMMUNICATION

Proposed Conditional Use Permit No. 18-8003 was advertised in the Record Gazette newspaper on January 4, 2019 (Attachment 5). As of the date of this report, staff has received one written comment for the project.
ATTACHMENTS:

1. Planning Resolution No. 2019-02  
   Exhibit A - Project Site Plan  
   Exhibit B - Conditions of Approval
2. Project Plans and Exhibits
3. Applicant's letter requesting Business License Permit
4. Comments (Church / Banning Police Department Incident Report)
5. Public Hearing Notice

Prepared By:  

[Signature]

Mark De Manincor  
Contract Planner  
Adrianna Ortiz  
Contract Planner

Reviewed and Recommended By:  

[Signature]

Maryann Marks, AICP  
Interim Community Development Director
ATTACHMENT 1

1. Planning Resolution No. 2019-02
2. Exhibit A - Project Site Plan
3. Exhibit B - Conditions of Approval
RESOLUTION NO. 2019-02

I. A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL ADOPTION OF A CATEGORICAL EXEMPTION, APPROVAL OF CONDITIONAL USE PERMIT 18-8003 TO ALLOW A BAR AND DRINKING ESTABLISHMENT WITH OUTDOOR SEATING AREA, FINESSE LOUNGE, APPROVAL OF A BUSINESS PERMIT REQUIRED BY SECTION 5.48 FOR PUBLIC DANCES AND POOL ROOMS AND A FINDING OF PUBLIC CONVENIENCE OR NECESSITY IN THE DOWNTOWN COMMERCIAL (DC) ZONE ON THE PROPERTY IDENTIFIED AS 144 WEST RAMSEY ST (APN 540-203-009, 007)

WHEREAS, an application for a Conditional Use Permit including a request for a drinking and catering establishment has been duly filed by:

Project Location: 144 West Ramsey Street
APN Information: 540-203-009, 007
Project Applicant: Old Eagle Enterprises, LLC
                      46775 Morongo Road.
                      Banning, CA 92220
Property Owner: Don M. Peterson and Ixchel Peterson
                494 Weather Way
                Banning, CA 92220

WHEREAS, the Planning Commission has the authority per Chapter 17 of the Banning Municipal Code to take action on Conditional Use Permit 18-8003 for a drinking and catering establishment in the Downtown Commercial Zoning District;

WHEREAS, the California Department of Alcoholic Beverage Control requires a finding of Public Convenience or Necessity be submitted by the local governing authority, (City Council);

WHEREAS, the City Council is required to approve a business license for Public Dances and Pool Rooms pursuant to Section 5.48 of the Banning Municipal Code.

WHEREAS, on January 4, 2019 the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300 feet of the project of the holding of a public hearing at which the project would be considered;
WHEREAS, on January 16, 2019 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to Conditional Use Permit No. 18-8003;

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Conditional Use Permit No. 18-8003 determined that, pursuant to CEQA Section 15301 (Existing Facilities) is Categorically Exempt;

NOW THEREFORE, the Planning Commission of the City of Banning does hereby recommend to the City Council of the City of Banning as follows:

SECTION 1: California Environmental Quality Act and Multiple Species Habitat Conservation Plan Findings. The Planning Commission of the City of Banning does hereby recommend that the City Council of the City of Banning make the following environmental findings and determinations in connection with the approval of the Project:

A. In accordance with §15301 (Existing Facilities) a Class 1 Categorical Exemption of the California Environmental Quality Act (CEQA), the project is being exempt from further environmental review. A Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

B. The Planning Commission has analyzed proposed Conditional Use Permit No. 18-8003 and has determined that it is Categorically Exempt from CEQA pursuant to §15301 of the CEQA Guidelines due to the fact that the proposal meets the required criteria to qualify as a “existing facilities” as defined by §15301 of the CEQA Guidelines.

C. Staff has analyzed proposed Conditional Use Permit No. 16-8005 and has determined that it is Categorically Exempt from CEQA pursuant to §15301 due to the fact that the proposed meets the required criteria to qualify as “existing facilities” as defined by §15301 and of the CEQA Guidelines. Therefore, Conditional Use Permit No. 18-8003 is Categorically Exempt from CEQA pursuant to §15301 and of the CEQA Guidelines.

D. Multiple Species Habitat Conservation Plan (MSHCP). The project is not subject to MSHCP as the project is an existing facility.

SECTION 2: Required Findings for Conditional Use Permit 18-8003: The Planning Commission of the City of Banning does hereby recommend that the City Council of the City of Banning find and determine that CUP No. 18-8003 should be approved because:
REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT 18-8003:

Section 17.52 of the City of Banning Zoning Ordinance requires each Conditional Use Permit application shall be analyzed to assure that the application is consistent with the intent and purpose of this chapter, the policies and programs of the General Plan, and the Development Standards and Guidelines of the district in which it is located. The following findings are provided in support of the approval of Conditional Use Permit No. 18-8003:

Finding No. 1: The proposed use is consistent with the General Plan;

Finding of Fact: Conditional Use Permit 18-8003 is consistent with the General Plan Land Use Element Policy which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands." The land-use designation of Downtown Commercial allows small scale commercial retail and office uses, services, restaurants, and entertainment as the primary uses in this designation. Further, Conditional Use Permit 18-8003 is consistent with General Plan Economic Development Policy which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues." Approval of the permit would allow the applicant to promote business diversity while providing an economic benefit to the City.

Finding No. 2: The proposed use is conditionally permitted within the subject land use district and complies with all the applicable provisions of this Ordinance;

Finding of Fact: Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses, of Title 17 of the Municipal Code, classifies 'Bars and Drinking Establishments', as conditionally permitted uses. Section 17.12.050 Use Specific Standards provides specific provisions for the Alcohol Beverage Control "ABC" Licenses and these provisions have been addressed in this approval as well.

Finding No. 3 The proposed use would not impair the integrity and character of the land use district in which it is to be located;

Finding of Fact: The proposed use will provide a new and upscale use that will complement existing restaurants and other businesses in the vicinity in the downtown area and will provide a desirable new use for residents and visitors to the City.

Finding No. 4 The subject site is physically suitable for the type and intensity of land use being proposed;
Finding of Fact: The subject site currently consists of a vacant building and the applicant is not proposing any significant exterior changes to the building. Furthermore, the small scale commercial retail, office uses, services, restaurants, bars, and entertainment are the primary uses in Downtown Zoning district.

Finding No. 5: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;

Finding of Fact: The site is served by the public and private utilities, including the City's water and electrical utilities. The site is accessed and served from West Ramsey Street which is an existing developed roadway with existing utilities.

Finding No. 6: There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics;

Finding of Fact: The minor tenant improvements to the building to accommodate the sale for alcohol related beverages, was reviewed pursuant to the California Environmental Quality Act (CEQA). The tenant improvements to accommodate alcohol related inventory qualifies for a Class 1 Existing Facilities categorical exemptions.

Finding No. 7: The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

Finding of Fact: The proposed use will not have a negative impact to the environment or natural resources and will complement existing businesses. Restaurants and the theater are located in close proximity and the proposed use will serve as a further draw to the downtown core. Sales of alcohol are regulated by the State of California, Department of Alcoholic Beverage Control (ABC), the applicant must maintain a valid license to be compliant with ABC. If determined for good cause that the continuance of such license would be contrary to the public welfare or morals ABC is authorized to suspend or revoke any license to sell alcoholic beverages. Furthermore, the City of Banning Police Department has provided an incident report that demonstrates that this is not a high crime area.

REQUIRED SPECIFIC USE FINDINGS FOR CONDITIONAL USE PERMIT 18-8003:

Section 17.12 of the City of Banning Zoning Ordinance requires businesses seeking an Alcohol Beverage Control license shall be analyzed to assure that the proposed project is consistent with the intent and purpose of this chapter, the policies and programs of the General Plan, and the Development Standards and Guidelines of the district in
which it is located. The following findings are provided in support of the approval of Conditional Use Permit No. 18-8003:

**Finding No. 1:** Establishments shall not be located within 500 feet of any school or public park within the City;

**Finding of Fact:** Staff has determined that the proposed location is not located within 500 feet of any school or public park within the City.

**Finding No. 2:** The license application shall be reviewed by the police department prior to Planning Commission approval;

**Finding of Fact:** The Banning Police Department has reviewed the project and provided an incident report for the area. This report demonstrated that very little criminal activity has been experienced in the area for the last 14 years and is attached to the Staff Report. No negative information has been provided by the Police Department.

**REQUIRED FINDINGS FOR A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY:**

In accordance with Section 23817.7(3) of the business and professions Code the following findings are made regarding the determination of public convenience or necessity:

(a) Notwithstanding Section 23817.5, the department may approve an application for an on-sale license in areas covered by Section 23817.5, if the applicant shows that public convenience or necessity would be served by the issuance, and where all of the following conditions are found to exist:

A. The applicant premises are located in a crime reporting district that is below that specified pursuant to paragraph (1) of subdivision (a) of Section 23958.4. In considering an application, the department may take into account adjacent crime reporting districts, if the applicant premises are located within 100 feet of the boundaries of any adjacent district. The department shall use an average of reported crimes in the crime reporting district in which the premises are located and reported crimes in any adjacent crime reporting district, if the total of crimes reported in the adjacent district or districts is greater than the crime reporting district in which the premises are located.

B. The applicant premises are located in an area that falls below the concentration level provided in paragraph (3) of subdivision (a) of Section 23958.4.

C. The local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines that public convenience or necessity would be served by the issuance.

**Finding:** The area is not in a high crime area as determined by the Banning Police Department Incident Report. The project will generate jobs
and tax revenue for the City and the project will assist in the revitalization of the Downtown area.

(b) The department may impose reasonable conditions on a licensee as may be needed in the interest of the public health, safety, and welfare regarding signing, training for responsible beverage sales and hours, and mode of sale.

SECTION 3: PLANNING COMMISSION ACTION - Recommendation of Approval of Conditional Use Permit No. 18-8003 with Conditions. Based on the foregoing, the Planning Commission of the City of Banning hereby recommends that the City Council of the City of Banning approve Conditional Use Permit No. 18-8003, attached hereto as Exhibit “A,” (APNs: Portions of 540-203-009, 007), subject to the recommended Conditions of Approval attached as Exhibit “B.”

PASSED, APPROVED AND ADOPTED this 16th day of January 2019.

_________________________
Eric Shaw, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

_________________________
Sarita R. Young, Assistant City Attorney
Richards, Watson & Gershon

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. 2018-07, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 6th day of June, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Recording Secretary
City of Banning, California
PROJECT #: Conditional Use Permit No. 18-8003

SUBJECT: Conditions of Approval (Planning Commission Resolution No. 2019-02)

APPLICANT: Old Eagle Enterprises, LLC / Finesse Lounge

LOCATION: APN: 540-204-009, 007

EXHIBIT B

* All fair share agreements, covenant agreements and agreements subject to recordation will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.

Community Development Department

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, 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, other applicable City Ordinances, in effect at the time of building permit issuance.

3. Construction and/or occupancy shall commence within two (2) years from the date of project approval, or the Conditional Use Permit approval shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year the Conditional Use Permit shall become null and void. The Community Development Director may, upon a written application being filed 30 days prior to expiration and for good cause, grant a onetime extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Design Review and Conditional Use Permit complies with all current Ordinance provisions.

4. If there more than three calls for service in any six-month period or any future issues that arise with the use that is the subject of this discretionary approval (e.g., complaints from neighboring residents or businesses) the Community Development Director or other appropriate City designee has the authority to require that the Conditional Use Permit be brought back before the Planning Commission for immediate remedy which may include, but not necessarily be limited to, the imposition of additional conditions of approval.

5. The Site shall be developed in compliance with all current model codes. All plans shall be designed in compliance with the latest editions of the California Building Codes as adopted by the City of Banning.

**Police Department Comments**

6. A licensee shall maintain an alarm system as defined in Business and Professions Code section 7590.1(n) at the licensed premises.

7. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system.

8. The business premises shall have a digital video surveillance system with a minimum camera resolution of 1280 x 720 pixels.
9. The surveillance-system storage device or the cameras shall be transmission control protocol (TCP) capable of being accessed through the internet.

10. The video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance and provide a time and date stamp.

11. Each camera shall be permanently mounted and in a fixed location. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the licensed premises, and allows for the clear and certain identification of any person and activities in all areas required to be filmed under subsection (e).

12. Areas that shall be recorded on the video surveillance system include the following:
   a. Areas where merchandise is being served and all exits.
   b. Limited-access areas;
   c. Security rooms;
   d. Areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area; and
   e. Entrances and exits to the premises, which shall be recorded from both indoor and outdoor vantage points.

13. Cameras shall record continuously 24 hours per day and at a minimum of 15 frames per second (FPS).

14. The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft.

15. Surveillance recordings shall be kept for a minimum of 90 days.

16. Surveillance recordings are subject to inspection by the police department, and shall be kept in a manner that allows the police department to view and obtain copies of the recordings at the licensed premises immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the police department upon request within the time specified by the police department.

17. Recorded images shall clearly and accurately display the time and date. Time is to be measured in accordance with the United States National Institute Standards and Technology standards.
18. The video surveillance system shall be equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance-system storage device.

Public Works Department

19. Submit verification that the existing water meter size is adequate to meet anticipated use.

20. Backflow protection devices are tested annually to ensure they are repaired, maintained, working properly, and in compliance with the State Department of Health Regulations. A backflow certification shall be submitted to the Public Works Department for each backflow device.

21. Grease trap may be needed if one does not exist. Fill out the attached "Industrial Waste Water Survey" form and if applicable the "Grease Interceptor Waiver Request" form and submit to Public Works for review.

Building Department

22. The following requirements will be required at the time of plan check submittal and/or prior to building occupancy, whichever occurs first:

(a) The Site shall be developed in compliance with all current model codes. All plans shall be designed in compliance with the latest editions of the California Building Codes as adopted by the City of Banning.

(b) Commercial buildings on the site shall be accessible per California Building Code (CBC) 11B.

(c) Site Facilities such as parking (open and covered), recreation facilities, and trash dumpsters, shall be accessible per California Building Code (CBC) 11A, 11B and 31B.

(d) Separate submittals and permits are required for all accessory structures such as but not limited to, trash enclosures, patios, block walls and storage buildings.

(e) Pursuant to California Business and Professions Code Section 6737, this project is required to be designed by a California licensed architect or engineer. Based on change of use and potential exiting and fire life safety improvements.
Fire Department

23. The Fire Department requires the listed fire protection measures be provided in accordance with the City of Banning Municipal Code and/or the Riverside County Fire Department Fire Protection Standards. All measures shall be complied with prior to building occupancy unless otherwise stated or approved by the Fire Department.

(a) Compliance with applicable provisions of the California Fire Code (CFC), 2016 edition and Riverside County Fire Department is required. Depending on the size and type of the event, additional conditions not listed below may be required.

(b) Any fire alarm and/or fire sprinkler plans may be deferred submittal, separate from the tenant improvement plans.

(c) Install door hardware and exit signs as per the 2016 CBC (A Occupancy).

(d) Exit signs must be internally/externally illuminated.

(e) Portable fire extinguishers having a minimum 2A:10BC rating shall be provided at an interval of not less than 75 feet of travel distance. Contact a certified extinguisher company for proper placement and spacing of equipment.

(f) Approved building address shall be placed in such a position as to be plainly visible and legible from the street and rear access if applicable. Building address numbers shall be a minimum of 12”. All addressing must be legible and of a contrasting color with the background and adequately illuminated to be visible from the street at all hours.

(g) (If applicable) Applicable room door(s) shall be posted “ELECTRICAL “, “FACP”, “FIRE RISER” and “ROOF ACCESS” on the outside of the door so it is visible and in a contrasting color.

(h) If the building has a fire alarm-Fire department emergency key (KNOX) box will be required. Provide keys to the tenant space for inclusion in the main building Knox Box. Key(s) shall have durable and legible tags affixed for identification of the correlating tenant space. Provide Knox Key switch for the gate. Forms can be picked up at Banning City Hall.
(i) Patio occupant load will need to be calculated at a net floor area when patrons are playing the games. When the games are not in use and stored the occupant load may be increased. Architect to calculate multiple occupant loads for uses. Must show on the plans.

***END***
ATTACHMENT 2

Project Plans and Exhibits
(11" x 17" plans provided)
**Paninis**

**Ham & Cheese**
Smoked ham, sharp cheddar, and chipotle aioli.

**Turkey & Swiss**
Smoked turkey, swiss cheese, and jalapeno cranberry sauce.

**Wings**

**Your Choice Of...**
- Buffalo
- Sweet Chili
- BBQ
- Sweet & Spicy
(Served with celery and carrots, ranch or bleu cheese)

**Wraps**

**Chefs Wrap**
Romaine, turkey, ham, cheddar, swiss, tomato, olives and your choice of dressing.

**Chicken Caesar**
Romaine, chicken, parmesan cheese, tomato, and caesar dressing.

**Cali Wrap**
Romaine, chicken, crispy prosciutto, avocado, onion, tomato, and your choice of dressing.

**Flat Bread**

**Pizza**
Your choice of wings:
- Chicken
- Spinach
- Artichoke
- Chef's daily special
Finesse Lounge – 144 West Ramsey St. Banning, CA 92220

<table>
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<tr>
<th>Before</th>
<th>After</th>
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<tbody>
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<td>Front of building</td>
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![Before photo of the Front of building](image1)

![After photo of the Front of building](image2)

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![Before photo of the BAR](image3)

![After photo of the BAR](image4)
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<td><strong>Pool Table area</strong></td>
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Finesse Lounge – 144 West Ramsey St. Banning, CA 92220 Page 3 of 3
ATTACHMENT 3

Applicant's Letter
Attn: City of Banning

We Old Eagle Enterprises, LLC(OEE) are requesting a business permit at 144 W Ramsey St & 45 S. 1st St, Banning, CA, 92220 APN#'s 540203009,(007).

regarding Banning Municipal Code Section 5.48.010. to allow billiards table and dance floor

Print

Signature

DATE
November 26, 2018

To Whom it May Concern:

After meeting with Arthur Cabral, representing the Finesse Lounge, who is applying for a liquor license at the business addresses of 144 W. Ramsey St. and at 45 S. 1st St. in the city of Banning CA, 92220, I, Pastor Dan Thompson of Faith Builders Family Church, am writing to say that regarding what we have heard, dealing with parking, security, and clientele, we support and understand the following:

Business type - Bar/Lounge
Liquor License type - 48
Hours of operation - Sunday through Saturday 10 a.m. to 2 a.m.

there are no objections or any conflict of interest regarding this endeavor at this time.

Mr. Cabral stated that he is willing to discuss concerns that arise, and assist in working them out to suit us both. We look forward to the Finesse Lounge opening and generating sales tax for the city as well as bringing new people to the City of Banning.

Sincerely yours,

Pastor Dan Thompson, PhD.
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ATTACHMENT 5

Public Hearing Notice
Record Gazette
218 N. Murray St.
Proof of Publication
(2015.5 C.C.P.)

161321 PHN FINESSE LOUNGE

State of California )
County of Riverside ) ss.

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, 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:

January 4, 2019

NOTICE OF PUBLIC HEARING FOR A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY AND CONDITIONAL USE PERMIT 18-8003 TO PERMIT A LOUNGE AND DRINKING ESTABLISHMENT IN THE DOWNTOWN COMMERCIAL (DC) ZONE ON REAL PROPERTY LOCATED AT 144 WEST RAMSEY STREET (APNs: 540-203-005, 540-203-007)

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning Planning Commission, to be held on Wednesday, January 16, 2019, at 6:30 p.m. (or soon thereafter) in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California. To consider a Notice of Exemption from CEQA, a determination of Public Convenience or Necessity for the issuance of a license by the California Department of Alcohol Beverage Control, and a Conditional Use Permit 18-8003 (CUP 18-8003) to allow a 2,351 square foot lounge and indoor bar and 1,338 square foot patio with dining and catering services in an existing building located in the Downtown Commercial (DC) Zone on real property located at 144 West Ramsey Street (APNs: 540-203-005, 540-203-007).

Information regarding the Notice of Exemption, the determination of Public Convenience or Necessity, and CUP 18-8003 can be obtained by contacting the City’s Community Development Department at (909) 822-3125, 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.cityofbanning.ca.us. All parties interested in speaking either in support of or in opposition to this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning, 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 also 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 also raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code Section 65309).

By Order of the Interim Community Development Director of the City of Banning, California
Maryann Marks, AICP
Interim Community Development Director
Dated: January 1, 2019
Published: January 4, 2019
Published in
The Record Gazette
No. 161321
01-04-2019

Executed on: 01/04/2019
At Banning , CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

[Signature]

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ATTACHMENT 3
Planning Commission Resolution
RESOLUTION 2019-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL ADOPTION OF A CATEGORICAL EXEMPTION, APPROVAL OF CONDITIONAL USE PERMIT 18-8003 TO ALLOW A BAR AND DRINKING ESTABLISHMENT WITH OUTDOOR SEATING AREA, FINESS LOUNGE, APPROVAL OF A BUSINESS PERMIT REQUIRED BY SECTION 5.48 FOR PUBLIC DANCES AND POOL ROOMS AND A FINDING OF PUBLIC CONVENIENCE OR NECESSITY IN THE DOWNTOWN COMMERCIAL (DC) ZONE ON THE PROPERTY IDENTIFIED AS 144 WEST RAMSEY ST (APN 540-203-009, 007)

WHEREAS, an application for a Conditional Use Permit including a request for a drinking and catering establishment has been duly filed by:

Project Location: 144 West Ramsey Street
APN Information: 540-203-009, 007
Project Applicant: Old Eagle Enterprises, LLC
46775 Morongo Road.
Banning, CA 92220
Property Owner: Don M. Peterson and Ixchel Peterson
494 Weather Way
Banning, CA 92220

WHEREAS, the Planning Commission has the authority per Chapter 17 of the Banning Municipal Code to take action on Conditional Use Permit 18-8003 for a drinking and catering establishment in the Downtown Commercial Zoning District;

WHEREAS, the California Department of Alcoholic Beverage Control requires a finding of Public Convenience or Necessity be submitted by the local governing authority, (City Council);

WHEREAS, the City Council is required to approve a business license for Public Dances and Pool Rooms pursuant to Section 5.48 of the Banning Municipal Code.

WHEREAS, on January 4, 2019 the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300 feet of the project of the holding of a public hearing at which the project would be considered;
WHEREAS, on January 16, 2019 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to Conditional Use Permit No. 18-8003;

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Conditional Use Permit No. 18-8003 determined that, pursuant to CEQA Section 15301 (Existing Facilities) is Categorically Exempt;

NOW THEREFORE, the Planning Commission of the City of Banning does hereby recommend to the City Council of the City of Banning as follows:

SECTION 1: California Environmental Quality Act and Multiple Species Habitat Conservation Plan Findings. The Planning Commission of the City of Banning does hereby recommend that the City Council of the City of Banning make the following environmental findings and determinations in connection with the approval of the Project:

A. In accordance with §15301 (Existing Facilities) a Class 1 Categorical Exemption of the California Environmental Quality Act (CEQA), the project is being exempt from further environmental review. A Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

B. The Planning Commission has analyzed proposed Conditional Use Permit No. 18-8003 and has determined that it is Categorically Exempt from CEQA pursuant to §15301 of the CEQA Guidelines due to the fact that the proposal meets the required criteria to qualify as a "existing facilities" as defined by §15301 of the CEQA Guidelines.

C. Staff has analyzed proposed Conditional Use Permit No. 16-8005 and has determined that it is Categorically Exempt from CEQA pursuant to §15301 due to the fact that the proposed meets the required criteria to qualify as "existing facilities" as defined by §15301 and of the CEQA Guidelines. Therefore, Conditional Use Permit No. 18-8003 is Categorically Exempt from CEQA pursuant to §15301 and of the CEQA Guidelines.

D. Multiple Species Habitat Conservation Plan (MSHCP). The project is not subject to MSHCP as the project is an existing facility.

SECTION 2: Required Findings for Conditional Use Permit 18-8003: The Planning Commission of the City of Banning does hereby recommend that the City Council of the City of Banning find and determine that CUP No. 18-8003 should be approved because:
REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT 18-8003:

Section 17.52 of the City of Banning Zoning Ordinance requires each Conditional Use Permit application shall be analyzed to assure that the application is consistent with the intent and purpose of this chapter, the policies and programs of the General Plan, and the Development Standards and Guidelines of the district in which it is located. The following findings are provided in support of the approval of Conditional Use Permit No. 18-8003:

Finding No. 1: The proposed use is consistent with the General Plan;

Finding of Fact: Conditional Use Permit 18-8003 is consistent with the General Plan Land Use Element Policy which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands." The land-use designation of Downtown Commercial allows small scale commercial retail and office uses, services, restaurants, and entertainment as the primary uses in this designation. Further, Conditional Use Permit 18-8003 is consistent with General Plan Economic Development Policy which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues." Approval of the permit would allow the applicant to promote business diversity while providing an economic benefit to the City.

Finding No. 2: The proposed use is conditionally permitted within the subject land use district and complies with all the applicable provisions of this Ordinance;

Finding of Fact: Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses, of Title 17 of the Municipal Code, classifies ‘Bars and Drinking Establishments’, as conditionally permitted uses. Section 17.12.050 Use Specific Standards provides specific provisions for the Alcohol Beverage Control “ABC” Licenses and these provisions have been addressed in this approval as well.

Finding No. 3: The proposed use would not impair the integrity and character of the land use district in which it is to be located;

Finding of Fact: The proposed use will provide a new and upscale use that will complement existing restaurants and other businesses in the vicinity in the downtown area and will provide a desirable new use for residents and visitors to the City.

Finding No. 4: The subject site is physically suitable for the type and intensity of land use being proposed;
Finding of Fact: The subject site currently consists of a vacant building and the applicant is not proposing any significant exterior changes to the building. Furthermore, the small scale commercial retail, office uses, services, restaurants, bars, and entertainment are the primary uses in Downtown Zoning district.

Finding No. 5: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;

Finding of Fact: The site is served by the public and private utilities, including the City's water and electrical utilities. The site is accessed and served from West Ramsey Street which is an existing developed roadway with existing utilities.

Finding No. 6: There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics;

Finding of Fact: The minor tenant improvements to the building to accommodate the sale for alcohol related beverages, was reviewed pursuant to the California Environmental Quality Act (CEQA). The tenant improvements to accommodate alcohol related inventory qualifies for a Class 1 Existing Facilities categorical exemptions.

Finding No. 7 The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

Finding of Fact: The proposed use will not have a negative impact to the environment or natural resources and will complement existing businesses. Restaurants and the theater are located in close proximity and the proposed use will serve as a further draw to the downtown core. Sales of alcohol are regulated by the State of California, Department of Alcoholic Beverage Control (ABC), the applicant must maintain a valid license to be compliant with ABC. If determined for good cause that the continuance of such license would be contrary to the public welfare or morals ABC is authorized to suspend or revoke any license to sell alcoholic beverages. Furthermore, the City of Banning Police Department has provided an incident report that demonstrates that this is not a high crime area.

REQUIRED SPECIFIC USE FINDINGS FOR CONDITIONAL USE PERMIT 18-8003:

Section 17.12 of the City of Banning Zoning Ordinance requires businesses seeking an Alcohol Beverage Control license shall be analyzed to assure that the proposed project is consistent with the intent and purpose of this chapter, the policies and programs of the General Plan, and the Development Standards and Guidelines of the district in
which it is located. The following findings are provided in support of the approval of Conditional Use Permit No. 18-8003:

Finding No. 1: Establishments shall not be located within 500 feet of any school or public park within the City;

Finding of Fact: Staff has determined that the proposed location is not located within 500 feet of any school or public park within the City.

Finding No. 2: The license application shall be reviewed by the police department prior to Planning Commission approval;

Finding of Fact: The Banning Police Department has reviewed the project and provided an incident report for the area. This report demonstrated that very little criminal activity has been experienced in the area for the last 14 years and is attached to the Staff Report. No negative information has been provided by the Police Department.

REQUIRED FINDINGS FOR A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY:

In accordance with Section 23817.7(3) of the business and professions Code the following findings are made regarding the determination of public convenience or necessity:

(a) Notwithstanding Section 23817.5, the department may approve an application for an on-sale license in areas covered by Section 23817.5, if the applicant shows that public convenience or necessity would be served by the issuance, and where all of the following conditions are found to exist:

A. The applicant premises are located in a crime reporting district that is below that specified pursuant to paragraph (1) of subdivision (a) of Section 23958.4. In considering an application, the department may take into account adjacent crime reporting districts, if the applicant premises are located within 100 feet of the boundaries of any adjacent district. The department shall use an average of reported crimes in the crime reporting district in which the premises are located and reported crimes in any adjacent crime reporting district, if the total of crimes reported in the adjacent district or districts is greater than the crime reporting district in which the premises are located.

B. The applicant premises are located in an area that falls below the concentration level provided in paragraph (3) of subdivision (a) of Section 23958.4.

C. The local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines that public convenience or necessity would be served by the issuance.

Finding: The area is not in a high crime area as determined by the Banning Police Department Incident Report. The project will generate jobs
and tax revenue for the City and the project will assist in the revitalization of the Downtown area.

(b) The department may impose reasonable conditions on a licensee as may be needed in the interest of the public health, safety, and welfare regarding signing, training for responsible beverage sales and hours, and mode of sale.

SECTION 3: PLANNING COMMISSION ACTION - Recommendation of Approval of Conditional Use Permit No. 18-8003 with Conditions. Based on the foregoing, the Planning Commission of the City of Banning hereby recommends that the City Council of the City of Banning approve Conditional Use Permit No. 18-8003, attached hereto as Exhibit “A,” (APNs: Portions of 540-203-009, 007), subject to the recommended Conditions of Approval attached as Exhibit “B”.

PASSED, APPROVED AND ADOPTED this 16th day of January 2019.

Eric Shaw, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

Serita R. Young, Assistant City Attorney
Richards, Watson & Gershon

ATTEST:
Sandra Calderon
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 2019-02 was duly adopted by the Planning Commission of the City of Banning, California, at a special meeting thereof held on the 16th day of January 2019, by the following vote, to wit:

AYES: Brosious, Krick, Price, Schuler, Shaw

NOES: None

ABSENT: None

ABSTAIN: None

Sandra Calderon, Recording Secretary
City of Banning, California
EXHIBIT B

* All fair share agreements, covenant agreements and agreements subject to recordation will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.

Community Development Department

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalties 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 instrumentalties 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 instrumentalties 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, other applicable City Ordinances, in effect at the time of building permit issuance.

3. Construction and/or occupancy shall commence within two (2) years from the date of project approval, or if the Conditional Use Permit approval shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year the Conditional Use Permit shall become null and void. The Community Development Director may, upon a written application being filed 30 days prior to expiration and for good cause, grant a onetime extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Design Review and Conditional Use Permit complies with all current Ordinance provisions.

4. If there more than three calls for service in any six-month period or any future issues that arise with the use that is the subject of this discretionary approval (e.g., complaints from neighboring residents or businesses) the Community Development Director or other appropriate City designee has the authority to require that the Conditional Use Permit be brought back before the Planning Commission for immediate remedy which may include, but not necessarily be limited to, the imposition of additional conditions of approval.

5. The Site shall be developed in compliance with all current model codes. All plans shall be designed in compliance with the latest editions of the California Building Codes as adopted by the City of Banning.

**Police Department Comments**

6. A licensee shall maintain an alarm system as defined in Business and Professions Code section 7590.1(n) at the licensed premises.

7. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system.

8. The business premises shall have a digital video surveillance system with a minimum camera resolution of 1280 x 720 pixels.
9. The surveillance-system storage device or the cameras shall be transmission control protocol (TCP) capable of being accessed through the internet.

10. The video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance and provide a time and date stamp.

11. Each camera shall be permanently mounted and in a fixed location. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the licensed premises, and allows for the clear and certain identification of any person and activities in all areas required to be filmed under subsection (e).

12. Areas that shall be recorded on the video surveillance system include the following:
   a. Areas where merchandise is being served and all exits.
   b. Limited-access areas;
   c. Security rooms;
   d. Areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area; and
   e. Entrances and exits to the premises, which shall be recorded from both indoor and outdoor vantage points.

13. Cameras shall record continuously 24 hours per day and at a minimum of 15 frames per second (FPS).

14. The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft.

15. Surveillance recordings shall be kept for a minimum of 90 days.

16. Surveillance recordings are subject to inspection by the police department, and shall be kept in a manner that allows the police department to view and obtain copies of the recordings at the licensed premises immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the police department upon request within the time specified by the police department.

17. Recorded images shall clearly and accurately display the time and date. Time is to be measured in accordance with the United States National Institute Standards and Technology standards.
18. The video surveillance system shall be equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance-system storage device.

**Public Works Department**

19. Submit verification that the existing water meter size is adequate to meet anticipated use.

20. Backflow protection devices are tested annually to ensure they are repaired, maintained, working properly, and in compliance with the State Department of Health Regulations. A backflow certification shall be submitted to the Public Works Department for each backflow device.

21. Grease trap may be needed if one does not exist. Fill out the attached “Industrial Waste Water Survey” form and if applicable the “Grease Interceptor Waiver Request” form and submit to Public Works for review.

**Building Department**

22. The following requirements will be required at the time of plan check submittal and/or prior to building occupancy, whichever occurs first:

(a) The Site shall be developed in compliance with all current model codes. All plans shall be designed in compliance with the latest editions of the California Building Codes as adopted by the City of Banning.

(b) Commercial buildings on the site shall be accessible per California Building Code (CBC) 11B.

(c) Site Facilities such as parking (open and covered), recreation facilities, and trash dumpsters, shall be accessible per California Building Code (CBC) 11A, 11B and 31B.

(d) Separate submittals and permits are required for all accessory structures such as but not limited to, trash enclosures, patios, block walls and storage buildings.

(e) Pursuant to California Business and Professions Code Section 6737, this project is required to be designed by a California licensed architect or engineer. Based on change of use and potential exiting and fire life safety improvements.
Fire Department

23. The Fire Department requires the listed fire protection measures be provided in accordance with the City of Banning Municipal Code and/or the Riverside County Fire Department Fire Protection Standards. All measures shall be complied with prior to building occupancy unless otherwise stated or approved by the Fire Department.

(a) Compliance with applicable provisions of the *California Fire Code* (CFC), 2016 edition and Riverside County Fire Department is required. Depending on the size and type of the event, additional conditions not listed below may be required.

(b) Any fire alarm and/or fire sprinkler plans may be deferred submittal, separate from the tenant improvement plans.

(c) Install door hardware and exit signs as per the 2016 CBC (A Occupancy).

(d) Exit signs must be internally/externally illuminated.

(e) Portable fire extinguishers having a minimum 2A:10BC rating shall be provided at an interval of not less than 75 feet of travel distance. Contact a certified extinguisher company for proper placement and spacing of equipment.

(f) Approved building address shall be placed in such a position as to be plainly visible and legible from the street and rear access if applicable. Building address numbers shall be a minimum of 12”. All addressing must be legible and of a contrasting color with the background and adequately illuminated to be visible from the street at all hours.

(g) (If applicable) Applicable room door(s) shall be posted "ELECTRICAL ", "FACP", "FIRE RISER" and "ROOF ACCESS" on the outside of the door so it is visible and in a contrasting color.

(h) If the building has a fire alarm-Fire department emergency key (KNOX) box will be required. Provide keys to the tenant space for inclusion in the main building Knox Box. Key(s) shall have durable and legible tags affixed for identification of the correlating tenant space. Provide Knox Key switch for the gate. Forms can be picked up at Banning City Hall.
(i) Patio occupant load will need to be calculated at a net floor area when patrons are playing the games. When the games are not in use and stored the occupant load may be increased. Architect to calculate multiple occupant loads for uses. Must show on the plans.

**ADDITIONAL CONDITIONS ADDED BY THE PLANNING COMMISSION**

24. The applicant shall work with City staff (Planning, Public Works and Electric) to provide adequate lighting for the adjacent alley.

***END***
ATTACHMENT 4
Map of Census Tract 0441.01
ABC Census Tract Area 441.01

ABC License Types

| 20 | OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises. |
| 21 | OFF SALE GENERAL - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises. |
| 23 | SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant. |
| 40 | ON SALE BEER - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises. |
| 41 | ON SALE BEER & WINE - EATING PLACE - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises. |
| 42 | ON SALE BEER & WINE - PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25603.5 for exception, musicians). Food service is not required. |
| 47 | ON SALE GENERAL - EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. Authorizes the sale of beer and wine for consumption off the licensed premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises. |
| 48 | ON SALE GENERAL - PUBLIC PREMISES - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25603.5 for exception, musicians). Food service is not required. |
ATTACHMENT 5
Comment Letters Received
November 26, 2018

To Whom it May Concern:

After meeting with Arthur Cabral, representing the Finesse Lounge, who is applying for a liquor license at the business addresses of 144 W. Ramsey St. and at 45 S. 1st St. in the city of Banning CA, 92220, I, Pastor Dan Thompson of Faith Builders Family Church, am writing to say that regarding what we have heard, dealing with parking, security, and clientele, we support and understand the following:

Business type - Bar/Lounge
Liquor License type - 48
Hours of operation - Sunday through Saturday 10 a.m. to 2 a.m.

there are no objections or any conflict of interest regarding this endeavor at this time.

Mr. Cabral stated that he is willing to discuss concerns that arise, and assist in working them out to suit us both. We look forward to the Finesse Lounge opening and generating sales tax for the city as well as bringing new people to the City of Banning.

Sincerely yours,

Pastor Dan Thompson, PhD.
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Updated: Aug 2018
Record Gazette
218 N. Murray St.
Proof of Publication
(2015.5 C.C.P.)

162415 PHN PCN CUP 18-8003

State of California  )
County of Riverside  ) ss.

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:

February 15, 2019

NOTICE OF PUBLIC HEARING FOR ADDITIONING A CATEGORICAL EXEMPTION, APPROVING CONDITIONAL USE PERMIT 18-8003 TO ALLOW A BAR AND DRINKING ESTABLISHMENT WITH OUTDOOR SEATING AREA, FRIES AND LOUNGE, APPROPRIATING A BUSINESS PERMIT REQUIRED UNDER CHAPTER 5.48 FOR PUBLIC DANCES AND POOL, AND A FINDING OF PUBLIC CONVENIENCE OR NECESSITY FOR THE ISSUANCE OF A LICENSE BY THE CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FOR A PROPOSED DRINKING AND CATERING ESTABLISHMENT IN THE DOWNTOWN COMMERCIAL (D) ZONE ON THE PROPERTY IDENTIFIED AS 144 WEST RAMSEY ST (APNs: 540-203-006, 007).

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning City Council, to be held on Tuesday, February 26, 2019 at 5:00 p.m. (or soon thereafter) in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider a Notice of Exemption from CEQA, a determination of Public Convenience or Necessity for the issuance of a license by the California Department of Alcoholic Beverage Control, a Business Permit required under Chapter 5.48 for public dances and pool and Conditional Use Permit 18-8003 (CUP 18-8003) to allow a 2,851 square foot lounge and liquor bar and 1,378 square foot patio with dining and catering services in an existing building located in the Downtown Commercial (D) Zone on real property located at 144 West Ramsey Street (APNs: 540-203-006, 540-203-007).

Notice regarding the Notice of Exemption, the determination of Public Convenience or Necessity, a Business Permit required under Chapter 5.48 for public dances and pool and CUP 18-8003 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 PO 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 City Council 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 65520).

BY ORDER OF THE INTERIM COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA
Maryane Marks, AICP
Interim Community Development Director
Date: February 12, 2019
Published: February 15, 2019
Published in: The Record Gazette
No. 162415
2/15/2019

Executed on: 02/15/2019
At Banning, CA.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

[Signature]

Ana Rivera
TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Maryann Marks, Interim Community Development Director

MEETING DATE: February 26, 2019

SUBJECT: Resolution 2019-03; General Plan Amendment 18-2501; Ordinance No. 1541 approving Zone Change 18-3501 and making findings pursuant to CEQA; Design Review 18-7001; and Environmental Assessment 18-1501 for the Proposed Development of a 146,890 Square Foot Industrial Building within the General Commercial (GC) Land Use District Located on Developed and Undeveloped Property Located at 1897 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street, 1589 West Lincoln Street and Vacant Parcels to the East (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045)

RECOMMENDED ACTION:

Staff recommends that the City Council:

1. Open the public hearing, receive public comment, and close the public hearing;

2. Adopt the Resolution 2019-03 (Attachment 1), Adopting an Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Environmental Assessment 18-1501), Approving General Plan Amendment 18-2501, and Approving Design Review 18-7001 for a Proposed 146,890 Square Foot Industrial Warehouse Building Project; and

3. Introduce, as read by title only, Ordinance No. 1541 (Attachment 2), an Ordinance of the City Council of the City of Banning, California, Approving Zone Change No. 18-3501 to Amend the Zoning Classification for Real Property Located on the North Side of Lincoln Street, East of 22nd Street at 1897 West Lincoln Street, 1661 West Lincoln Street, 1589 West Lincoln Street and Vacant Parcels to the East (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045) from General
PROJECT/APPLICANT INFORMATION:

Project Applicant:  David J. Hidalgo  
David Hidalgo Architects, Inc.  
316 South First Avenue  
Arcadia, CA 91733

Property Owner:  DJL Properties, LLC  
2034 North Peck Road  
South El Monte, CA 91733

Project Location:  North side of Lincoln Street at 1897 West Lincoln Street, 1661  
West Lincoln Street, 1617 West Lincoln Street and 1589 West  
Lincoln Street, between 22nd Street and 8th Street including 6  
vacant parcels to the west

APN Information:  538-230-014, 538-220-002, 538-220-003, 538-220-004,  
540-180-041, 540-180-042, 540-180-043, 540-180-044 &  
540-180-045

PLANNING COMMISSION RECOMMENDATION:

At its January 16, 2019 meeting, the Planning Commission considered the proposed Project  
and unanimously adopted Resolution No. 2019-01, recommending approval of a General  
Plan Amendment and Zone Change to change the General Plan land use designation and  
zoning classification of 19.69 partially developed acres from General Commercial (GC) to  
Business Park (BP) and recommending Design Review approval for the construction of a  
new 146,890 square foot industrial warehouse building on 6.7 vacant acres located to the  
east, adjacent to the existing development at 1897 West Lincoln Street.

BACKGROUND:

In 2010, Lawrence Equipment, a family owned business purchased the site and shortly  
thereafter began manufacturing machinery used to make tortillas, flatbreads and similar  
products. Over the years, the business expanded to include general warehousing and  
incidental retail sales.

The site is surrounded by the single family residential developments to the south and  
west. The Southern Pacific Railroad line and Interstate 10 to the north of the property.  
Table 1 lists the land uses surrounding the site. To the east of the existing warehouse  
buildings is vacant property once used as residential lots and recently used for cattle  
grazing.

The applicant proposes to construct a single story, 146,890 square-foot light  
manufacturing and warehouse building for the expansion of the existing manufacturing  
business. The proposed building would include 73,445 square-feet of light manufacturing,
and 73,445 of industrial warehousing. An additional 174 parking spaces are proposed, which exceeds the parking requirement of 173 spaces as well as 12 loading spaces.

A conceptual fencing and planting plan depicts perimeter landscaping with a variety of ground cover, shrubs and trees which will provide fence/wall screening and soften the effects while enhancing the neighborhood character. The planting plan will coordinate with the photometric lighting plan per the requirements in the Municipal Code.

The expansion is expected to employ approximately 25 employees each use for both the warehousing and manufacturing additions, for a total of approximately 50 employees. Many of the current employees live in Banning. The company has an existing internship training program in another facility which they are looking into implementing in Banning with the expansion.

On January 16, 2019, the City Planning Commission considered Resolution No. 2019-01 and received public comments in favor of the project as well as comments expressing preferred design themes. The Planning Commission recommended unanimously that the City Council approve the subject applications for the construction of a 146,890 square foot industrial warehouse building. The Planning Commission staff report is attached as Attachment 3.

JUSTIFICATION

The proposed General Plan Amendment (GPA 18-2501) to change the General Plan land use designation for the site from General Commercial to Business Park and Zone Change (ZC 18-3501) to change the zoning classification of the site from General Commercial to Business Park, would be consistent with uses permitted within the Business Park land use designation. The proposed Project will complement the adjoining light industrial manufacturing and warehouse facility to the west and allow the expansion of the existing facility and bring additional jobs to the City.

The request for Design Review approval of the proposed single-story industrial warehouse structure includes site and circulation layout design in such a way that the Project will enhance the existing character of the surrounding neighborhood by the addition of a well-designed landscape plan. The project design and landscape are consistent with the standards of the Banning Zoning Code.

Additional details, including findings for approval of GPA 18-2501, ZC 18-3501, and DR 18-7001, are provided in the Planning Commission staff report attached as Attachment 3.

ENVIRONMENTAL DETERMINATION:

Pursuant to the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code § 21000 et seq.), the State Guidelines (14 Cal. Code Regs. § 15000 et seq.), and the City's Local Guidelines, City staff prepared an Initial Study of the potential environmental effects of the approval of the Project. Based upon the findings contained in that Study, City staff determined that, with the incorporation of mitigation measures, there was no substantial evidence that the Project could have a significant effect on the environment and a
Mitigated Negative Declaration (MND) was prepared in full compliance with the requirements of CEQA.

Thereafter, City staff provided public notice of the public comment period and of the intent to adopt the MND as required by law. The public comment period commenced on January 11, 2019, and expired on January 31, 2019. Copies of the documents were provided for public review and inspection. Comments received during the 20-day review period are incorporated into the Final MND, along with the City’s responses to each comment.

The MND was prepared in compliance with CEQA and with the incorporation of mitigation measures, there is no substantial evidence that the Project will have a significant effect on the environment. The project will be conditioned to comply with the mitigation measures imposed under the approved Mitigation Monitoring and Reporting Program (MMRP).

**FISCAL IMPACT**

Issuance of grading, building, and other permits will result in additional revenues for the City. Development of the property would result in an increase of approximately 50 jobs within the City, an increase in property values and associated increases in property taxes.

**OPTIONS:**

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

**ATTACHMENTS:**

1. Resolution No. 2019-03
2. Ordinance No. 1541
3. Planning Commission Staff Report
5. Comment Letters Received
6. Public Hearing Notice

Approved by:

[Signature]

Douglas Schulze
City Manager
ATTACHMENT 1

Resolution No. 2019-03
GPA 18-2501, DR 18-7001, EA 18-1501
RESOLUTION NO. 2019-03


WHEREAS, an application for General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001 to permit the development of a proposed approximately 146,890 square foot industrial building (the "Project") has been duly filed by for the proposed Lawrence Equipment Expansion:

Applicant:     David Hidalgo Architects, Inc.
Owner:        DJL Properties, LLC
Authorized Agent: David J. Hidalgo
Project Sponsor:  Lawrence Equipment.
Project Location:  Noted Above
Lot Area:     19.69 acres

WHEREAS, the City Council of the City of Banning ("City") adopted the current General Plan on January 31, 2006;
WHEREAS, California Government Code Section 65358(a) authorizes the City Council to amend the General Plan if it deems to be in the public interest;

WHEREAS, the City Council has the authority to review and either approve or deny General Plan Amendment No. 18-2501 for a change in the General Plan from General Commercial and the authority per Chapter 17.56 of Banning Municipal Code to review and either approve or deny Design Review 18-7001 for the property located on developed and undeveloped property at 1897 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street, 1589 West Lincoln Street and vacant parcels to the east (APN 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045;

WHEREAS, in accordance with Government Code Sections 65353, 65355 and 65090, on January 11, 2019 the City gave public notice by advertisement in the Record Gazette newspaper of a notice of availability/notice of intent to adopt a Mitigated Negative Declaration (MND) announcing the 20-day circulation for public review and comment on the Draft Mitigated Negative Declaration. Likewise, in accordance with State of California Public Resources Code Section 21165, a Public Hearing Notice was advertised in the Record Gazette newspaper for the Planning Commission hearing to be held on January 16, 2019. Copies of the Draft MND were made available at Banning City Hall and Banning Public Library, and comments received during the 20-day review period are incorporated into the Final MND, along with the City’s responses to each comment for review and consideration by the City Council;

WHEREAS, in accordance with Government Code Section 65353, on January 16, 2019 the Planning Commission held a duly-noticed public hearing to consider the General Plan Amendment No. 18-2501, Zone Change No. 18-3501, and Design Review 18-7001, Mitigated Negative Declaration 18-1501, and Mitigation Monitoring and Reporting Program, and recommended that the City Council approve General Plan Amendment No. 18-2501, Zone Change 18-3501 and Design Review 18-7001 for the 19.69- acre site;

WHEREAS, on February 26, 2019 the City Council held a duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the General Plan Amendment and the Design Review 18-7001 and at which the City Council considered the General Plan Amendment and Design Review;

WHEREAS, the City Council reviewed GPA 18-2501 and DR 18-7001 for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City’s environmental procedures and considered Mitigated Negative Declaration 18-1501 and the Mitigation Monitoring and Reporting Program,

NOW THEREFORE, the City Council of the City of Banning does Resolve, Determine, Finds and Orders as follows:

SECTION 1: ENVIRONMENTAL FINDINGS.
The City Council, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines and Thresholds of Significance, the staff recommendation as provided in the Staff Report dated February 26, 2019, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

A. Public Record:

The documents and other materials constituting the record of the proceedings upon which the City’s decision and its findings are based is located at the City of Banning Community Development Department, Planning Division. The Final Mitigated Negative Declaration meets the requirements of this finding in that documents and other material constituting the record of the proceedings upon which the City’s decision and findings are located at the Planning Division of the City of Banning, 99 East Ramsey Street, CA, 92220 in the custody of the Banning Community Development Department as part of the public record.

B. CEQA:

The approval of this General Plan Amendment is in compliance with requirements of the California Environmental Quality Act (“CEQA”), in that on February 26, 2019, at a duly noticed public hearing, the City Council considered the project’s Final Mitigated Negative Declaration 18-1501 and Mitigation Monitoring and Reporting Program and found that no significant environmental impacts would occur after required Mitigation Measures.

SECTION 2: GENERAL PLAN AMENDMENT 18-2501 FINDINGS

The City Council hereby finds:

A. The proposed amendment is internally consistent with the General Plan in that:

Upon City Council approval of the requested General Plan Amendment, the site’s land use designation will be changed to Business Park, and the proposed development would be consistent with uses permitted within the Business Park land use designation. The Business Park land use designation is intended to allow “light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores”.

B. The proposed change in the General Plan land use designation from General Commercial to Business Park will not be detrimental to the public interest, health, safety, convenience or welfare in that:
The proposed Project will complement the adjoining light industrial manufacturing and warehouse facility to the west and allow the expansion of the existing facility. As demonstrated in the analysis contained in the Planning Commission staff report dated January 16, 2019, and the MND prepared for the Project (Environmental Assessment 18-1501), there are no features unique to the Project site or the proposed use that would create conditions detrimental to the public interest, health, safety, convenience, or welfare of the City.

C. The proposed amendment would maintain the appropriate balance of land uses within the City, in that:
Upon City Council approval of the requested General Plan Amendment, the site’s land use designation will be changed to Business Park (BP), and the proposed development would be consistent with uses permitted within the Business Park land use designation. The Business Park land use designation is intended to allow “light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores”.

The Project is consistent with the General Plan Land Use Element Policy which states: “The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands”. The land-use designation of Business Park allows the proposed light manufacturing and warehouse use. The proposed light manufacturing and warehouse building will provide approximately 73,445 square feet of manufacturing space and 73,445 square feet of warehousing.

D. The subject parcel is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints), for the requested land use designation and the anticipated land use developments in that:

The 6.4-acre portion of the 19.69-acre project area is of adequate size to accommodate the proposed light manufacturing and warehouse building, subject to compliance with the proposed Conditions of Approval. No natural constraints exist to the proposed development, and no significant adverse environmental impacts are anticipated with mitigation measures contained in the MND for the Project (Environmental Assessment 18-1501).

Lincoln Street provides suitable access and all necessary utilities are in place within adjacent public rights-of-way. As has been described in the preceding analysis, the site is surrounded by a railroad line and freeway to the north, light manufacturing, warehousing to the west, vacant parcels to the east and
residential to the south across Lincoln Street. Public Facility-Railroad/Interstate adjoins the Project site on the north, with General Commercial land use designation and a single family residential land uses to the west and to the east and Very Low Density and Business Park across Lincoln Street to the south. A six-foot wrought iron perimeter fence buffers the existing facility, a proposed six-foot concrete, stucco covered wall is proposed on the north and east perimeter and an eight-foot concrete tilt up wall will buffer the proposed Project on the south boundary. The subject site is basically flat with and has been graded and developed in the past, thus no unique physical features or vegetation will be affected by the proposed Project.

SECTION 3: DESIGN REVIEW 18-7001 FINDINGS

The City Council hereby finds the following:

A. The proposed project is consistent with the General Plan.

The Project is consistent with the General Plan Land Use Element Policy, which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands". The land-use designation of Business Park (BP) allows the proposed light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores. The proposed light manufacturing and warehouse building will provide approximately 73,445 square feet of manufacturing space and 73,445 square feet of warehousing. Further, the Project is consistent with General Plan Economic Development Policy, which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues". The proposed Project is estimated to generate approximately 50 jobs.

B. The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

The proposed Project is consistent with the Zoning Ordinance and the development standards of the Business Park (BP) Zone, with imposition of Conditions of Approval, as detailed in the analysis contained in the Planning Commission staff report dated January 16, 2019.

C. The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.
The proposed Project has provided site and circulation layout design in such a way that the Project will not interfere with the use and enjoyment of existing and future development in the surrounding area. The proposed Project provides vehicular access from Lincoln Street as well as through the adjacent property to the west. A minimum six-foot solid perimeter wall will buffer residential development to the south of the proposed Project and design of lighting on-site is subject to compliance with the Municipal Code to prevent spillage onto adjacent areas.

D. The design of the proposed project is compatible with the character of the surrounding neighborhood.

The proposed light manufacturing and warehouse building use will not impair the integrity and character of the BP land use district in which it is to be located because it is surrounded by existing light manufacturing and warehousing developments and is on Lincoln Street, an established corridor to other business parks, industrial and warehouse businesses. The building architecture, site circulation and landscaping have been designed in a manner that the Project is compatible with the character of the surrounding neighborhood, with the imposition of Conditions of Approval and CEQA mitigation measures. Additionally, a minimum 6-foot solid wall, along with landscaping, will buffer the site from residential areas to the south.

SECTION 4: CITY COUNCIL ACTION

The City council hereby takes the following action:

Adopt the Mitigated Negative Declaration (Environmental Assessment 18-1501) and the associated Mitigation Monitoring and Reporting Program; Approve General Plan Amendment No.18-2501 amending the General Plan land use designation on APNs 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045 from General Commercial to Business Park; and approve Design Review 18-7001 to permit the development of a proposed approximately 146,890 square foot industrial building subject to conditions.

PASSED, APPROVED AND ADOPTED this 26th day of February, 2019

Arthur L. Welch, Mayor
City of Banning
ATTEST:

Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2019-03 was duly adopted at a regular meeting of the City Council of the City of Banning held on the 26th day of February, 2019 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Daryl Betancur, Deputy City Clerk
City of Banning, California
ORDINANCE NO. 1541


WHEREAS, an application for General Plan Amendment 18-2501, Zone Change No. 18-3501, and Design Review 18-7001 for the proposed Lawrence Equipment Expansion to permit the development of a proposed approximately 146,890 square foot light manufacturing and warehouse building (the "Project") has been duly filed by:

Project Applicant: David Hidalgo Architects, Inc.
Owner: DJL Properties, LLC
Authorized Agent: David J. Hidalgo
Project Sponsor: Lawrence Equipment
Project Location: Noted Above
Lot Area: 19.69 acres

WHEREAS, in accordance with Banning Municipal Code Section 17.116.030, on January 16, 2019, the Planning Commission held a duly public noticed hearing to consider the General Plan Amendment No. 18-2501, Zone Change No. 18-3501, and Design Review 18-7001, and adopted Resolution No. 2019-01 by a 5-0-0 vote, recommending that the City Council approve General Plan Amendment No. 18-2501, Zone Change No. 18-3501, and Design Review 18-7001;
WHEREAS, in accordance with Government Code Section 65856 and Banning Municipal Code Section 17.68.020.B., on February 15, 2019, the City gave public notice by advertisement in the Record Gazette Newspaper, of a public hearing concerning the Project, which included the General Plan Amendment 18-2501, Zone Change 18-3501, Design Review 18-7001, and Environmental Assessment 18-1501 (a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP));

WHEREAS, pursuant to Banning Municipal Code Section 17.116.040 and Government Code Sections 65853 and 65857, the City Council is authorized to approve, modify, or disapprove the Planning Commission’s recommendation on Zone Change No. 18-3501; and

WHEREAS, in accordance with Banning Municipal Code Section 17.116.040 and Government Code Section 65856, at this public hearing on February 26, 2019, the City Council considered and heard public comments on the General Plan Amendment 18-2501, Zone Change 18-3501, Design Review 18-7001, and MND and MMRP for the Project.

NOW THEREFORE, the City Council of the City of Banning does ordain as follows:


The City Council, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Community Development Director as provided in the Staff Report dated February 26, 2019, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

A. Pursuant to the California Environmental Quality Act (“CEQA”) (Cal. Pub. Res. Code § 21000 et seq.), the State Guidelines (14 Cal. Code Regs. § 15000 et seq.), and the City’s Local Guidelines, City staff prepared an Initial Study of the potential environmental effects of the approval of the Project as described in the Initial Study. Based upon the findings contained in that Study, City staff determined that, with the incorporation of mitigation measures, there was no substantial evidence that the Project could have a significant effect on the environment and a Mitigated Negative Declaration (MND) was prepared in full compliance with the requirements of CEQA.

B. Thereafter, City staff provided public notice of the public comment period and of the intent to adopt the MND as required by law. The public comment period commenced on January 11, 2019, and expires on January 31, 2019. Copies of the documents have been available for public review and inspection at City Hall, 99 E. Ramsey Street, Banning, California 92220, and the Banning Public Library, 21 West Nicolet Street, Banning, California 92220. The City received comments during the public review period.
C. On January 16, 2019, the Planning Commission conducted a duly noticed public hearing to consider the Project and the MND, reviewed the staff report, accepted and considered public testimony. After due consideration, the Planning Commission found that agencies and interested members of the public were afforded ample notice and opportunity to comment on the MND and the Project and approved Resolution No. 2019-01 recommending that City Council adopt the MND, adopt the MMRP for the Project, and approve the proposed General Plan Amendment 18-2501, Zone Change No. 18-3501, and Design Review 18-7001.

D. On February 26, 2019, the City Council conducted a duly noticed public hearing to consider proposed General Plan Amendment 18-2501, Zone Change No. 18-3501, and Design Review 18-7001, and the MND, reviewed the staff report, accepted and considered public testimony. Based upon the evidence presented at the hearing, including the staff report and oral testimony, the City Council, by separate Resolution No. 2019-03, adopted the MND and a MMRP for the proposed General Plan Amendment 18-2501, Zone Change No. 18-3501, and Design Review 18-7001.

E. All actions taken by City have been duly taken in accordance with all applicable legal requirements, including the California Environmental Quality Act (Cal. Pub. Res. Code, § 21000 et seq.) (“CEQA”), and all other requirements for notice, public hearings, findings, votes and other procedural matters.

F. The custodian of records for the MND, MMRP, and all other materials that constitute the record of proceedings upon which the City Council’s decision was based, including, without limitation, the staff reports, all of the materials that comprise and support the MND and all of the materials that support the staff reports, is the Planning Division of the City of Banning. Those documents are available for public review during normal business hours at Banning City Hall, 99 East Ramsey Street, Banning, California 92220.

SECTION 2. Findings for Approval of Zone Change No. 18-3501.

Pursuant to Banning Municipal Code Section 17.116, the City Council makes the following findings pertaining to Zone Change No. 18-3501:

Finding No. 1: The proposed Zone Change No. 18-3501 is consistent with the goals and policies of the General Plan.

Finding of Fact: Upon City Council approval of the requested Zone Change, the site’s zoning designation will be changed to Business Park (BP). The proposed development is consistent with uses permitted within the Business Park Land Use Designation in the General Plan Land Use Element.

The Project is consistent with the General Plan Land Use Element Policy which states: “The land–use map shall provide for sufficient
lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands. The zoning classification of Business Park (BP) allows light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores.

Finding No. 2: The proposed Zone Change No. 18-3501 is internally consistent with the Zoning Ordinance.

Finding of Fact: The proposed Zone Change is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards. Pursuant to the Project's Conditions of Approval, the proposed Project will be constructed in conformance with City standards and specifications.

Finding No. 3: The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Finding of Fact:

1. Review Period: That the City has provided the public review period for the Draft Mitigated Negative Declaration for the 20 day duration required under CEQA Guidelines Sections 15087 and 15105.

2. Compliance with Law: That the draft Mitigated Negative Declaration, Final Mitigated Negative Declaration and the associated Mitigation Monitoring Reporting Program were prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Banning.

3. Independent Judgment: That the Final MND and MMRP adopted by the City Council by adoption of City Council Resolution No. 2019-03 reflect the independent judgment and analysis of the City.

SECTION 3: City Council Action

Based on the foregoing, the City Council hereby approves Zone Change No. 18-3501, amending the Zoning Map from General Commercial (GC) to Business Park (BP) for property located on the north side of Lincoln Street, east of 22nd Street at 1897 West Lincoln Street, 1661 West Lincoln Street, 1589 West Lincoln Street and vacant parcels to the east also known as (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045).
PASSED, APPROVED AND ADOPTED this 26th day of February, 2019

Art Welch, Mayor
City of Banning

ATTEST:

Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1541 was duly adopted at a regular meeting of the City Council of the City of Banning held on the 26th day of February, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:
ABSTAIN:

Daryl Betancur, Deputy City Clerk
City of Banning, California
ATTACHMENT 3
Planning Commission Staff Report
CITY OF BANNING
Planning Commission Report

DATE: January 16, 2019
TO: Planning Commission
FROM: Maryann Marks, AICP, Interim Community Development Director
PREPARED BY: Sonia Pierce, Senior Planner


RECOMMENDATIONS

I. That the Planning Commission adopt Resolution 2019-01 recommending that the Council approve General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-1501.

II. That the Planning Commission recommend that the City Council adopt the Mitigated Negative Declaration (MND) for the project (Environmental Assessment 18-1501).
APPLICANT INFORMATION:

Project Location: North side of Lincoln Street at 1897 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street and 1589 West Lincoln Street, between 22ND Street and 8th Street including 6 vacant parcels to the west.


Project Applicant: David J. Hidalgo
David Hidalgo Architects, Inc.
316 South First Avenue
Arcadia, CA 91006

Property Owners: DJL Properties, LLC
2034 Peck Road
South El Monte, CA 91733

APPLICANT’S REQUEST:

The applicant is requesting approval of a General Plan Amendment to change the General Plan land use designation of 19.69 partially developed acres from General Commercial (GC) to Business Park (BP); a Zone Change to change the Zoning District from General Commercial (GC) to Business Park (BP) and Design Review approval for the construction of a new 146,890 square foot industrial warehouse building on 6.7 vacant acres located to the east, adjacent to the existing development at 1897 West Lincoln Street.

PROJECT BACKGROUND AND SETTING:

For over 40 years, the site was occupied by Pacific Windows, a door and window manufacturing plant. In 2010, Lawrence Equipment, a family owned business purchased the site and shortly thereafter began manufacturing machinery used to make tortillas, flatbreads and similar products. Over the years, as the business expanded to include general warehousing, and incidental retail sales additions were added to the buildings.

The site is surrounded by the single family residential developments to the south and west. The Southern Pacific Railroad line and Interstate 10 to the north of the property. Table 1 lists the land uses surrounding the site. To the east of the existing warehouse buildings is vacant property once used as residential lots and recently used for cattle grazing.
### Table 1

**Land Use Summary**

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Designation</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Vacant and Single Family Residential/ Montgomery Creek</td>
<td>Very Low Density Residential (VLDR) and Business Park (BP)</td>
<td>Very Low Density Residential (VLDR) and Business Park (BP)</td>
</tr>
<tr>
<td>East</td>
<td>Vacant</td>
<td>General Commercial (GC)</td>
<td>General Commercial (GC)</td>
</tr>
<tr>
<td>West</td>
<td>Vacant/ Montgomery Creek / Single Family Residential</td>
<td>General Commercial (GC)</td>
<td>General Commercial (GC)</td>
</tr>
</tbody>
</table>

### PROJECT DESCRIPTION

The applicant proposes a General Plan Amendment (GPA 18-2501), Zone Change (ZC 18-3501) for 19.69 acres from the General Commercial land use district to the Business Park land use district and Design Review (DR 18-7001) on 6.7 acres to allow construction of a single story, 146,890 square-foot light manufacturing and warehouse building for the expansion of the existing manufacturing business. The proposed building would include 73,445 square-feet of light manufacturing, and 73,445 of Industrial warehousing. In addition, 174 parking spaces, and related fencing, walls and landscaping is proposed on site. The expansion is expected to employ 25 employees for both warehousing and manufacturing for a total of 50 employees.

### Table 2

**Project Characteristics**

<table>
<thead>
<tr>
<th>Area Calculations</th>
<th>Square footage</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Property Area</td>
<td>857,696</td>
<td>19.69 Acres</td>
</tr>
<tr>
<td>Net Property Area</td>
<td>849,485</td>
<td>19.50 Acres</td>
</tr>
<tr>
<td><strong>New Addition</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gross Property Area</td>
<td>293,792</td>
<td>6.7</td>
</tr>
<tr>
<td>Net Property Area*</td>
<td>270,573</td>
<td>6.2</td>
</tr>
<tr>
<td>Building pad</td>
<td>146,890</td>
<td>54% % of site area</td>
</tr>
<tr>
<td>Landscaping</td>
<td>18,551</td>
<td>15% of parking area</td>
</tr>
</tbody>
</table>
Existing Site Conditions

The project site is a total 19.69 acres and the westerly 13 acres is fully developed with 5 Lawrence Equipment metal buildings totaling 170,000 square foot used for manufacturing, warehouses, related retail sales and 220 parking spaces. The easterly 6.7 acres are mostly disturbed, with the remaining vacant parcels having been used for cattle grading for several years. The site is generally flat and slopes towards the Montgomery Creek at the west boundary.

General Plan Amendment and Zone Change

The proposed project includes a General Plan Amendment (GPA) and a Zone Change (ZC) from General Commercial (GC) to Business Park (BP) land use district and zoning district. Upon the City Council’s approval of the requested GPA and ZC, the site’s land use designation and zoning classification would change to Business Park, and the proposed development would be consistent with uses permitted within the Business Park land use designation and the BP zoning district. The Business Park land use designation
and BP Zone are intended to allow “light industrial and office/warehouse buildings also, ancillary restaurants and retail uses are permitted uses.

Design Review

Building Design

The design is modern industrial and includes concrete tilt-up wall construction with aluminum composite panels, canopies and bronze storefront mullions. The applicant proposes to construct an off-white tilt-up concrete building with two alternating textures, “dimple finish” and sandblast finish”. Aluminum composite panels will also be incorporated at select intervals to accent the entrances. The concrete panels are a series of multi colors that include blues, greys and white colors as accents at selected intervals throughout the building elevations.

The building is setback 60-feet from the main access street, Lincoln Street and 60-feet from the east and west interior property lines. At the north property line, the building setback is 20-feet. All setbacks meet or exceed the minimum zero or 10-foot requirement of the Business Park (BP) land use district.

The subject 6.4 - acre site proposed for development consists of seven parcels. The applicant will be required to merge the lots into one parcel, prior to the issuance of building permits. The building pad is 146,890 sq. ft. or 54% lot coverage, which is less than the maximum 60% allowed in the Business Park Zone. The development meets all setback and lot coverage requirements for the proposed zone.

Building Height

The single-story building height ranges from twenty-six feet, eight inches (26'-8") to thirty-six feet (36') in height. The majority of the building is twenty-eight feet (28') in height with accent walls incorporated at various locations to add articulation to the building and to help screen the mechanical roof top equipment. The Business Park Zone allows for building at a maximum of two-stories at fifty feet (50) in height. Staff is supportive of the height at thirty-six feet (36'), since it is an integral part of the building architectural design and it helps to screen the roof top equipment.

Perimeter Walls

The existing 6-foot high perimeter wrought iron fencing along Lincoln Street will remain and an 8-foot high combination wrought iron and concrete tilt up wall is proposed for construction along the frontage of the new building. The wall will screen the facility and with dense landscaping will soften the appearance along Lincoln Street. In accordance with Section 17.12.030(16), the additional height may be permitted for security and be approved by the Community Development Director under a separate review and permit.
The Municipal Code (Section 17.28.060(E) (11)) requires a 6-foot high "solid architecturally treated decorative masonry wall" approved by the Community Development Director in any non-residential development abutting "residentially designated property".

Parking and Loading

Vehicle access will be provided primarily through two driveways directly off of Lincoln Street. Secondary access is provided through the adjacent parcel to the west. The existing site development is well established and has been in operation for many years. The proposed development is an expansion of an existing business and has an already established parking area with 220 parking spaces for employees and businesses on site. The new development, as proposed, provides 174 parking spaces and 12 truck loading stalls. The total parking for the site is 394 spaces which is more than adequate. Table 3 illustrates parking required by the Municipal Code and parking proposed. ADA

The parking for this project is based on Section 17.28.040(C) Parking and Loading Standards of the Municipal Code. The building floor plan is divided into 2 uses averaging 73,445 square feet each. The spaces are identified as manufacturing and Industrial warehousing a total 146,890 square-feet in area. The building is an expansion of an existing business and support facilities are located within the existing buildings on the property. A condition of approval has been included requiring a parking analysis prior to the time of occupancy.

<table>
<thead>
<tr>
<th>Type of use</th>
<th>Parking Standard</th>
<th>Parking Required</th>
<th>Parking Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial Warehousing (73,445 sq. ft.)</td>
<td>22 spaces plus 1 space per 2,000 sq. ft. of portion over 20,000 sq. ft.+</td>
<td>48 parking spaces</td>
<td>48 parking spaces</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>2 spaces plus one space per 600 sq. ft.</td>
<td>125 parking spaces</td>
<td>126 parking spaces</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>173 spaces</td>
<td>174 spaces</td>
</tr>
</tbody>
</table>

Landscaping

The majority of the site is development and the site proposed for expansion has been previously graded for the development of residences, that have been recently demolished or is sparsely vegetated, with no distinctive natural features. The proposed conceptual "Planting Plan" depicts landscaping with trees and shrubs along the site perimeter and
distributed throughout parking areas. The landscape plan provides a variety of planting materials, including fifteen – 36 inch box trees, fifty-seven - 24 inch box trees and twenty-eight 15 gallon size trees, as well as a variety of shrubs and ground cover. The project’s landscape program must comply with standards set forth in Section 17.28.060 and Chapter 17.32 of the Municipal Code. In addition, the applicant will be required to coordinate the proposed conceptual Planting Plan with the proposed Lighting Plan.

Lighting

A photometric plan has been prepared for the project and was evaluated on a preliminary Basis in the Initial Study/MND. See the Aesthetics discussion, item 1(d). In order to ensure that no adverse impacts from possible spillage of light and glare occur, Mitigation Measure AES-1, requiring compliance with the Municipal Code, has been incorporated into the project. A Condition of Approval has been included to require compliance with all applicable standards and requirements in the Municipal Code. In addition, the project is required to be in compliance with all CEQA mitigation measures.

Refuse Storage

The facility has incorporated two trash compactors and typically will have a recycling program. Prior to issuance of building permits the development will be required to finalize trash pick-up and/or trash enclosure details. A condition of approval has been included to require that project met the city requirements for refuse.

Conclusion

The proposed use and site, building, and landscape design, along with proposed and recommended improvements and conditions, will enhance the site and provide for a land use that would complement the the surrounding community. Staff recommends approval of the proposed project, subject to conditions contained in Exhibit “A” attached.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

The proposed General Plan Amendment No. 18-2501, Zone Change 18-3501 and Design Review 18-7001 are considered a “project” as defined by the California Environmental Quality Act (“CEQA”) (Public Resources Code § 21000 et seq.). An Initial Study (EA 18-1501) has been prepared and made available for public review beginning on January 11, 2019 and closing on January 31, 2019.

Based upon analysis contained in the Initial Study, staff determined that any potentially significant effects on the environment would be reduced to less than significant levels by mitigation measures incorporated in the Initial Study and that the preparation of an MND
was appropriate. All mitigation measures are carried forward into project Conditions of Approval. An MMRP has also been prepared, as required by CEQA.

**Multiple Species Habitat Conservation Plan (MSHCP).**

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

**PUBLIC COMMUNICATION:**

Proposed GPA 18-2501, Zone Change 18-3501, DR 18-7001, and Environmental Assessment 18-1501 were advertised in the Record Gazette newspaper on January 4, 2019 (Attachment No. 4).

**ATTACHMENTS:**

1. Planning Commission Resolution No. 2019-01
   - Exhibit A – Project Plans/General Plan / Zone Change Map
   - Exhibit B – Conditions of Approval
2. Project Plans
3. Mitigated Negative Declaration/Mitigation Monitoring and Reporting Program
4. Public Hearing Notice

Prepared By:

Söhia Pierce
Senior Planner

Reviewed and Recommended By:

Maryann Marks, AICP
Community Development Director
ATTACHMENT 1

Planning Commission Resolution No. 2019-01
Exhibit A. Project Plans
Exhibit B. Conditions of Approval
RESOLUTION 2019-01


WHEREAS, an application for General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001 to permit the development of a proposed 146,890 square foot Light Manufacturing and Warehouse building (the "Project") has been duly filed by:
that the City Council of the City of Banning make the following environmental findings and
determinations in connection with the approval of the Project:

A. Pursuant to the California Environmental Quality Act ("CEQA") (Cal. Pub.
Res. Code § 21000 et seq.), the State Guidelines (14 Cal. Code Regs. §
15000 et seq.), and the City’s Local Guidelines, City staff prepared an Initial
Study of the potential environmental effects of the approval of the Project
as described in the Initial Study. Based upon the findings contained in that
Study, City staff determined that, with the incorporation of mitigation
measures, there was no substantial evidence that the Project could have a
significant effect on the environment and a Mitigated Negative Declaration
(MND) was prepared in full compliance with the requirements of CEQA.

B. Thereafter, City staff provided public notice of the public comment period
and of the intent to adopt the MND as required by law. The public comment
Copies of the documents have been available for public review and
inspection at City Hall, 99 E. Ramsey Street, Banning, California 92220, and
the Banning Public Library, 21 West Nicolet Street, Banning, California
92220. The City received did not receive any comments during the public
review period.

C. The City Council reviewed MND and the MMRP, which is on file with the
Planning Department and incorporated herein by this reference, and all
comments received regarding the MND and, based on the whole record
before it, finds that: (1) the MND was prepared in compliance with CEQA;
(2) with the incorporation of mitigation measures, there is no substantial
evidence that the Project will have a significant effect on the environment;
and (3) the MND reflects the independent judgment and analysis of the City
Council.

D. Based on the findings set forth in this Resolution, the City Council hereby
adopts the MND and MMRP for the Project.

E. The Community Development Director is authorized to file a Notice of
Determination in accordance with CEQA.

SECTION 2: Findings for Recommendation of Approval of General Plan
Amendment 18-2501. The Planning Commission of the City of Banning does hereby
recommend that the City Council of the City of Banning find and determine that General
Plan Amendment 18-2501 should be approved because:

A. Finding: The proposed amendment is internally consistent with the
General Plan.

Findings of Fact:
Upon City Council approval of the requested General Plan Amendment, the
site’s land use designation will be changed to Business Park, and the
Applicant / Owner: David Hildago Architects, Inc.
Project Sponsor: DJL Properties, LLC.
Authorized Agent: David Hildago Architects, Inc
Project Location: North side of Lincoln Avenue at 1879 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street and 1589 West Lincoln Street, between 22nd Street and 8th Street,
Lot Area: 19.69 acres;

WHEREAS, the Planning Commission has the authority to review and make recommendations to the City Council concerning General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001;

WHEREAS, in accordance with Government Code Sections 65353, 65090, and 65091, on January 4, 2019, the City gave public notice, by advertisement in the Record Gazette newspaper, of a public hearing concerning the Project, which included the General Plan Amendment 18-2501, Zone Change 18-3501, Design Review 18-7001, and Environmental Assessment 18-1501 (a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP). The public hearing notice was also mailed to the owner of the subject real property, the owner’s duly authorized agent, the Project applicant, and property owners within 300 feet of the Project site on or before January 6, 2019. Further, in accordance with Public Resources Code Section 21165, a Notice of Availability and Public Hearing Notice was advertised in the Record Gazette Newspaper on January 11, 2019, announcing the 20-day circulation for public review and comment of the draft MND for the proposed Project. Copies of the draft MND were made available at Banning City Hall and Banning Public Library;

WHEREAS, in accordance with Government Code Section 65353, on January 16, 2019, the Planning Commission held the public hearing at which interested parties had an opportunity to testify in support of, or opposition to, General Plan Amendment 18-2501, Zone Change 18-3501, Design Review 18-7001, and at which the Planning Commission considered the Project, each of the proposed entitlements, and the MND; and

WHEREAS, at this public hearing on January 16, 2019, the Planning Commission heard public comments on, and adopted this Resolution recommending that the City Council adopt the MND and MMRP for the Project, and approve General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby recommend to the City Council of the City of Banning as follows:

SECTION 1: California Environmental Quality Act Findings and Recommendation for Adoption of Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. The Planning Commission of the City of Banning does hereby recommends
proposed development would be consistent with uses permitted within the Business Park land use designation. The Business Park land use designation is intended to allow "light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores".

B. **Finding:** That the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

**Findings of Fact:**
The proposed Project will complement the adjoining light industrial manufacturing and warehouse facility to the west and allow the expansion of the existing facility. As demonstrated in the analysis contained in the Planning Commission staff report dated January 16, 2019, and the MND prepared for the Project (Environmental Assessment 18-1501), there are no features unique to the Project site or the proposed use that would create conditions detrimental to the public interest, health, safety, convenience, or welfare of the City.

C. **Finding:** That the proposed amendment would maintain the appropriate balance of land uses within the City.

**Findings of Fact:**
Upon City Council approval of the requested General Plan Amendment, the site’s land use designation will be changed to Business Park (BP), and the proposed development would be consistent with uses permitted within the Business Park land use designation. The Business Park land use designation is intended to allow "light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores".

The Project is consistent with the General Plan Land Use Element Policy which states: "The land–use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands". The land-use designation of Business Park allows the proposed light manufacturing and warehouse use. The proposed light manufacturing and warehouse building will provide approximately 73,445 square feet of manufacturing space and 73,445 square feet of warehousing.

D. **Finding:** That in the case of an amendment to the General Plan Land Use Map, the subject parcels (s) is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints), for the
requested land use designation(s) and the anticipated land use developments(s).

Findings of Fact:
The 6.4-acre portion of the 19.69-acre project area is of adequate size to accommodate the proposed light manufacturing and warehouse building, subject to compliance with the proposed Conditions of Approval. No natural constraints exist to the proposed development, and no significant adverse environmental impacts are anticipated with mitigation measures contained in the MND for the Project (Environmental Assessment 18-1501).

Lincoln Street provides suitable access and all necessary utilities are in place within adjacent public rights-of-way. As has been described in the preceding analysis, the site is surrounded by a railroad line and freeway to the north, light manufacturing, warehousing to the west, vacant parcels to the east and residential to the south across Lincoln Street. Public Facility-Railroad/Interstate adjoins the Project site on the north, with General Commercial land use designation and a single family residential land uses to the west and to the east and Very Low Density and Business Park across Lincoln Street to the south. A six foot wrought iron perimeter fence buffers the existing facility, a proposed six-foot concrete, stucco covered wall is proposed on the north and east perimeter and an eight-foot concrete tilt up wall will buffer the proposed Project on the south boundary. The subject site is basically flat with and has been graded and developed in the past, thus no unique physical features or vegetation will be affected by the proposed Project.

SECTION 3: Findings for Recommendation of Approval of Zone Change 18-3501. The Planning Commission of the City of Banning does hereby recommend that the City Council of the City of Banning find and determine that Zone Change 18-3501 should be approved because:

A. Finding: The proposed Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact:
The Project is consistent with the General Plan Land Use Element Policy which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands". The zoning classification of Business Park (BP) allows light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores.

B. Finding: The proposed Amendment is internally consistent with the Zoning Ordinance.
Findings of Fact:
The proposed Project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards. Pursuant to the Project’s Conditions of Approval, the proposed Project will be constructed in conformance with City standards and specifications.

C. Finding: The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:
See findings of fact in Section 1 of this Resolution.

SECTION 4: Findings for Recommendation of Approval of Design Review 18-7001. The Planning Commission of the City of Banning does hereby recommend that the City Council of the City of Banning find and determine that Design Review 18-7001 should be approved because:

A. Finding: The proposed Project is consistent with the General Plan.

Findings of Fact:
The Project is consistent with the General Plan Land Use Element Policy which states: “The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands”. The land-use designation of Business Park (BP) allows the proposed light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores. The proposed light manufacturing and warehouse building will provide approximately 73,445 square feet of manufacturing space and 73,445 square feet of warehousing.

Further, the Project is consistent with General Plan Economic Development Policy which states: “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues”. The proposed Project is estimated to generate approximately 50 jobs.

B. Finding: The proposed Project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact:
The proposed Project is consistent with the Zoning Ordinance and the development standards of the Business Park (BP) Zone, with imposition of Conditions of Approval, as detailed in the analysis contained in the Planning Commission staff report dated January 16, 2019.
C. Finding: The design and layout of the proposed Project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Findings of Fact:
The proposed Project has provided site and circulation layout design in such a way that the Project will not interfere with the use and enjoyment of existing and future development in the surrounding area. The proposed Project provides vehicular access from Lincoln Street as well as through the adjacent property to the west. A minimum six-foot solid perimeter wall will buffer residential development to the south of the proposed Project and design of lighting on-site is subject to compliance with the Municipal Code to prevent spillage onto adjacent areas.

D. Finding: The design of the proposed Project is compatible with the character of the surrounding neighborhood.

Findings of Fact:
The proposed light manufacturing and warehouse building use will not impair the integrity and character of the BP land use district in which it is to be located because it is surrounded by existing light manufacturing and warehousing developments and is on Lincoln Street, an established corridor to other business parks, industrial and warehouse businesses. The building architecture, site circulation and landscaping have been designed in a manner that the Project is compatible with the character of the surrounding neighborhood, with the imposition of Conditions of Approval and CEQA mitigation measures. Additionally, a minimum 6-foot solid wall, along with landscaping, will buffer the site from residential areas to the south.

PLANNING COMMISSION ACTION - Recommendation of Approval of Project with Conditions. Based on the foregoing, the Planning Commission of the City of Banning hereby recommends that the City Council of the City of Banning approve General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001 to permit the development of a 146,890 square foot light manufacturing and warehouse building on 6.4 acres of a 19.69 acre Project Site of real property located on the north side of Lincoln Street, at 1897 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street and 1589 West Lincoln Street and adjacent parcels to the east, between 22nd Street and 8th Street as shown in plans attached as Exhibit A (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045).

SECTION 5: and, subject to the recommended Conditions of Approval attached as Exhibit B. Further, the Planning Commission of the City of Banning hereby recommends to the City Council of the City of Banning that the Council’s approval of Design Review 18-7001 not be effective until the effective date of the City Council
resolution approving General Plan Amendment 18-2501 and the ordinance adopting Zone Change 18-3501, whichever date occurs later.

PASSED, APPROVED AND ADOPTED this 16th day of January, 2019.

________________________
Eric Shaw, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

________________________
Serita R. Young, Assistant City Attorney
Richards, Watson & Gershon

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. 2019-01, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 16th day of January, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Sandra Calderon, Recording Secretary
City of Banning, California
General Plan Amendment 18-2501, Zone Change 18-3501,

PROJECT #: Design Review 18-7001, Conditions of Approval

SUBJECT: Planning Commission Resolution No. 2019-01

APPLICANT: David Hildago Architects, Inc

LOCATION: 1879 WEST LINCOLN, 1617 WEST LINCOLN, 1661 WEST LINCOLN

EXHIBIT B

* All fair share agreements, covenant agreements and agreements subject to recodarion will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.

Community Development Department

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, 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, state Planning and Zoning Laws, 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, or other applicable City Ordinances, in effect at the time of building permit issuance.

3. Construction shall commence within two (2) years from the date of project approval, or the Design Review approval shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year the Design Review approval shall become null and void. Projects may be built in phases if pre-approved by the review authority. The Community Development Director may, upon a written application being filed 30 days prior to expiration and for good cause, grant a onetime extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Design Review approval complies with all current Ordinance provisions.

4. A copy of the signed Resolution of approval or Community Development Director’s letter of approval and all conditions of approval and any applicable mitigation measures shall be reproduced in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for review and approval as required by the reviewing department.

5. Prior to any use of the project site, or business activity being commenced thereon, the applicant shall complete all Conditions of Approval to the satisfaction of the Community Development Director.

6. The site shall be developed and maintained in accordance with the plans stamped approved by the City, which include site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division; the conditions contained herein; and, Banning Municipal Code regulations.


8. **PRIOR TO ISSUANCE OF BUILDING PERMITS:** The developer shall complete and record a parcel merger for the seven parcels identified as Assessor’s Parcel
9. **PRIOR TO ISSUANCE OF BUILDING PERMITS**: The developer shall complete and record a parcel merger or lot line adjustment for the two parcels that have an existing 610,890 square foot building across the parcel lines on the parcels identified as Assessor's Parcel Numbers APN: 538-230-014 and 538-220-004.

10. **PRIOR TO ISSUANCE OF BUILDING PERMITS** file and obtain the required demolition permits for the structure at 1661 W. Lincoln Street.

11. A six-(6) foot chain link fence or wall must be maintained around the perimeter of the site during all phases of construction.

12. Outdoor storage and screening shall comply with wall and fencing requirements of Section 17.12 of the BMC.

13. There shall be no storage of vehicles or equipment, or any other materials in the parking or landscaping areas of the project.

14. The applicant shall remove all graffiti immediately or within 24 hours of notice from the City.

15. The applicant shall keep the entire project site free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.

16. The site plan and project design shall comply with all Mitigation Measures contained in Mitigated Negative Declaration (MND) 18-1501 and the Mitigation Monitoring and Reporting Program (MMRP).

17. Separate submittals and permits are required for all accessory structures such as but not limited to, trash enclosures, patios, block walls and storage buildings.

18. Prior to approval of Building Permits, the Landscape Plan shall be coordinated with the Lighting Plan to avoid conflicts and ensure proper placement of trees and lighting standards. Submit detailed landscape plans, prepared by a licensed landscape architect for compliance with Chapter 17.32, Section 17.12.120, and 17.28.060 and all pertinent landscape requirements. The plans shall be submitted to the Planning Division for approval prior to the issuance of building permits.

19. No spillage of light shall be allowed off-site on any property line.

20. All signage shall comply with Chapter 17.36 of the Banning Municipal Code. A coordinated comprehensive signage program shall be submitted for review and the approval of the Planning Department prior to issuance of Occupancy Permits.
21. Prior to the issuance of Building Permits, a comprehensive lighting plan, including specification details, shall be submitted to the Planning Department for review and approval prior to the issuance of Building Permits. The Lighting Plan shall comply with Title 24 of the California Uniform Building Code. Any existing lighting along Lincoln Street shall be plotted on the Lighting Plan, Site Plan and Landscape Plan. Any proposed wall lighting shall be schematically plotted on the Lighting Plan, Site Plan and on building facades.

22. The developer shall submit a construction access plan and schedule for the development of the project for Community Development Director and City Engineer approval; including, but not limited to, public notice requirements, special street posting, phone listing for community concerns, hours of construction activity, dust control measures, and security fencing.

23. Prior to certificate of occupancy, a comprehensive parking plan shall be submitted to Community Development identifying each use and related parking. Thereafter, at the time of submittal for building permits, each tenant shall submit a comprehensive parking plan identifying that the facility is in compliance with the parking code.

Public Works Department

A. General Requirements

24. A Public Works Permit shall be required prior to commencement of any work within the public right-of-way. The contractor working within the public right-of-way shall submit proof of a Class “A” State Contractor’s License, City of Banning Business License, and Liability Insurance. Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced as determined by the City Engineer or his/her representative.

25. Prior to the issuance of any grading, construction, or public works permit by the City, the applicant shall obtain any necessary clearances and/or permits from the following agencies:

a. Fire Marshal (access)

b. Public Works Department (grading permits, street improvement permits)

c. Riverside County Flood Control & Water Conservation District (storm drain)

d. California Regional Water Quality Control Board Colorado River Basin (RWQCB)
e. South Coast Air Quality Management District (SCAQMD)

f. California Department of Transportation (CALTRANS)

The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.

26. The following improvement plans shall be prepared by a Civil Engineer licensed by the State of California and submitted to the Engineering Division for review and approval. A separate set of plans shall be prepared for each line item listed below. Unless otherwise authorized in writing by the City Engineer, the plans shall utilize the minimum scale specified and shall be drawn on 24" x 36" Mylar film. Plans may be prepared at a larger scale if additional detail or plan clarity is desired (Note: the applicant may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors):

a. Rough Grading Plans  
   (All Conditions of Approval shall be reproduced on last sheet of set)  
   1" = 40' horizontal

b. Haul Route Plans  
   1" = 40' horizontal

c. Clearing Plans  
   (Include construction fencing plan)  
   1" = 50' horizontal

d. Erosion Control & SWPPP, WQMP  
   (Note: a, b, c & d shall be reviewed and approved concurrently)  
   1" = 40' Horizontal

e. Storm Drain Plans  
   1" = 40' Horizontal

f. Street Improvement Plans  
   1" = 40' Horizontal  
   1" = 40' Vertical

g. Signing & Striping Plans  
   1" = 40' Horizontal

h. Precise Grading Plans  
   1" = 40' Horizontal

i. Landscaping Plans  
   1" = 20' Horizontal

j. Water & Sewer Improvement Plans  
   1" = 40' Horizontal  
   1" = 4' Vertical
Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

All off-site plan and profile, street improvement plans and signing & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.

A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

27. Upon completion of construction, the Developer shall furnish the City with reproducible record drawings on Mylar film of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD files submitted to the City, revised to reflect the "As-Built" conditions.

B. Street Improvements/Rights of Way

28. The Applicant shall dedicate to the City of Banning the additional right-of-way of 25-feet fronting Lincoln Street (50 feet from centerline of the street) for public street and utilities purposes. Legal descriptions and plats of street dedication shall be provided to the Engineering Division for review and approval before acceptance by the City Council and recorded by the County of Riverside.

29. The City and Developer are to enter into a Development Agreement (DA) to guarantee the construction of the public improvements as listed in the Conditions of Approval and as shown on the approved plans. The applicant shall work with the City Attorney's Office to execute the DA and pay all related legal processing fees.

30. All street improvement designs shall provide pavement and lane transitions per City of Banning and CalTrans standards for transition to existing street sections.

31. Construct half-width (50-feet from centerline) street improvements fronting Lincoln Street including street lighting, curb and gutter, driveway approaches, sidewalk, parkway, asphalt concrete paving, traffic signs and striping, and any transitions. Street lights shall be installed offset of the existing street lights. Applicant's geotechnical engineer shall provide the design of the pavement section based upon the CalTrans method.

32. Construct commercial driveway approach or approaches fronting Lincoln Street in accordance with the City of Banning Standard No. C-209 or C210.
33. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.

34. The applicant shall plant and perpetually maintain trees, shrubs, and ground cover placed in the parkway, slopes adjacent to public right-of-ways constructed in connection with the project. This includes providing irrigation and the clearing of debris and weed removal.

35. All required public improvements for the project shall be completed, tested, and approved by the Engineering Division prior to issuance of any Certificate of Occupancy.

C. Grading and Drainage

36. Submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval. The study and analysis shall be prepared by a civil engineer licensed by the State of California. Drainage design shall be in accordance with Banning Master Drainage Plan adopted by Riverside County Flood Control and Water Conservation District (RCFCD), RCFCD Hydrology Manual, and standard plans and specifications. The 10-year storm flow shall be contained within the street curbs, and the 100-year storm shall be contained within the street right-of-way; when this criteria is exceeded, additional drainage facilities shall be designed and constructed.

37. At a minimum, all development will make provisions to store runoff from rainfall events up to and including the one-hundred three-hour during event. Post-development peak urban runoff discharge rates shall not exceed pre-development peak urban runoff discharge rates.

38. If the site is located in a Flood Area as identified in Flood Insurance Rate Map dated August 28, 2008 the developer is responsible for providing a certification by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

39. The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of concentrated or diverted storm flows. The project shall accept and convey storm flows from the adjacent property to the north, east and west.

40. The applicant shall comply with Chapter 13.24 “Stormwater Management Systems” of the Banning Municipal Code (BMC) and Title 18 “Grading, Erosion
and Sediment Control" of the California Building Code related to excavation and grading; and, the State Water Resources Control Board's orders, rules and regulations.

41. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.

42. The applicant's SWPPP shall be reviewed and approved by the City Engineer prior to any permit issuance.

43. The applicant shall ensure that the required SWPPP is available for inspection at the project site at all times through and including acceptance of all improvements by the City.

44. The applicant's SWPPP shall include provisions for all of the following Best Management Practices ("BMPs"):

   a. Temporary Soil Stabilization (erosion control).

   b. Temporary Sediment Control.

   c. Wind Erosion Control.

   d. Tracking Control.

   e. Non-Storm Water Management.

   f. Waste Management and Materials Pollution Control.

45. All erosion and sediment control BMPs proposed by the applicant shall be designed using the CASQA BMP handbook and approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project.

46. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.

47. Prior to issuance of any grading or building permit, a Project-Specific Water Quality Management Plan (WQMP) shall be reviewed and approved in accordance with California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2013-0011.
48. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California.

49. Prior to the issuance of any building permit(s), a precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any grading activity.

50. The following notation shall be placed on the grading plan: "No more than three days prior to removing trees, shrubs or tall herbaceous vegetation during the breeding season for migratory birds (February 15 to August 31) a qualified biologist shall conduct a nesting bird survey."

51. Prior to the issuance of a building permit, the applicant shall provide a lot pad certification stamped and signed by a qualified civil engineer or land surveyor. Pad certification shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. Such pad certification shall also list the relative compaction of the pad soil.

D. Traffic

52. Prior to the issuance of a grading permit or building permit, the applicant shall submit and obtain approval in writing from the Fire Marshal for the plans for all public or private access drives or streets. The plans shall include plan and sectional views and indicate the grade and width of the access road measured flow-line to flow-line. When a dead-end access exceeds 150 feet or when otherwise required, a clearly marked fire apparatus access turnaround must be provided and approved by the Fire Marshal. Applicable covenant, conditions or restrictions or other approved documents shall contain provisions which prohibit obstructions such as speed bumps/humps, control gates or other modifications within said easement or access road unless prior approval of the Fire Marshal is granted.

53. Driveway grades shall not exceed eight percent unless approved by the City Engineer.

54. Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on the approved plans.

55. Prior to the issuance of a grading permit or building permit, the applicant shall conduct a Traffic Impact Analysis at the intersection of Lincoln Street/8th street and Lincoln Street and 22nd Street and submit the report to the Engineering Division for review and approval. All mitigation identified in the Traffic Impact
Analysis shall be implemented by the applicant to the satisfaction of the City Engineer.

56. Prior to the issuance of any certificate of occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street/access driveway as approved by the Fire Marshall, and must be maintained in good condition by the property owner until the street is accepted for maintenance.

E. Water

57. Construct all water improvements including connection to the existing City water system. All water mains to be constructed within the Public right-of-way shall be Ductile Iron Pipe and shall be a minimum of 8". Final size shall be approved by the City Engineer.

58. A backflow device must be installed on all commercial buildings and at each irrigation water connection. The backflow device must be in compliance with the State Department of Health Regulations.

59. Fire Services will require a Double Detector Check or RPP Device.

60. Pay all applicable water connection and frontage fees per Chapter 13.08 “Water, Sewer and Electricity Rates” of the Banning Municipal Code prior to the issuance of a building permit.

61. Submit water plans along with water demand calculations, based on fixture counts for indoor domestic use for each unit (i.e., per building, tenant, etc.) and computed separately for outdoor irrigation. Separate irrigation meter(s) with RP backflow device will be required. Each potential building/unit shall have a dedicated domestic water meter with RP backflow protection.

62. The private fire protection system shall be designed to meet Fire Department requirements, and include an RPDA backflow protection device approved by USC.

F. Sewer

63. Design and construct sewer line and connect to existing City sewer system. Submit any sewer improvement plans to Engineering Division for review and approval. If the sewer line is not located on a public street, an easement over the sewer line, minimum 15 feet in width, shall be granted to the City of Banning for maintenance purposes.

64. All sewer lines to be constructed within the Public right-of-way shall be extra strength Vitrified Clay Pipe. All sewer laterals shall be a minimum of 4" and all
sewer mains shall be a minimum of 8". Final sizes shall be approved by the City Engineer.

65. A sewer check valve shall be provided for each building with a finish pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.

66. Pay all applicable sewer connection and frontage fees per Chapter 13.08 “Water, Sewer and Electricity Rates” of the Banning Municipal Code prior to the issuance of a building permit.

67. Some industrial users may require a discharge permit, depending on the nature of the anticipated quality and quantity of the discharge. Before connecting to the City Sewer System, applicant shall provide detailed information on the anticipated discharge flows, patterns and characteristics.

68. Submit sewer plans showing one or multiple sewer lateral connections to the existing 8" sewer main on Lincoln

G. Trash/Recycling

69. The developer shall participate in the City’s recycling program by providing two trash receptacles, one for regular trash and one for recycling, within the covered trash enclosure. The covered trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.

70. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City’s franchised solid waste hauler, Waste Management of the Inland Valley at 1-800-423-9986, for disposal of construction debris.

H. Fees

71. Plan check fees for professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the fee schedule in effect at the time of submittal.

72. Public Works Inspection fees shall be paid prior to issuance of any permits in accordance with the fee schedule in effect at time of scheduling.

73. Water and sewer connection fees including frontage fees and water meter installation charges shall be paid at the time of building permit issuance in accordance with the fee schedule in effect at that time.
74. A plan storage fee shall be paid for any engineering plans that may be required prior to issuance of certificate of occupancy in accordance with the fee schedule in effect at the time the fee is paid.

75. Prior to issuance of grading permits, the applicant shall submit to the City Engineer a Notice of Intent (NOI) to comply with obtaining coverage under the National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit from the State Water Resources Control Board. Evidence that this has been obtained (i.e., a copy of the Waste Dischargers Identification Number) shall be submitted to the City Engineer for coverage under the NPDES General Construction Permit prior to initiation of construction activities.

I. Lot Merger

76. Applicant shall submit copy of Grant Deed of the proposed lot mergers to the City.

77. Applicant shall submit legal descriptions and plats of the proposed lot merger to the City for review and approval.

78. All legal descriptions and plats must be prepared, stamped and signed by a Registered Land Surveyor or Civil Engineer in the State of California on letter size paper.

79. Applicant shall pay all associated engineering fees to the City at the time of submittal.

Electric Utility Department

80. Any electric utility pole (s) that need to be relocated for this project will be done at developer's expense.

81. Submit the outlined information in a timely fashion is critical for design, planning and ordering of material for this project.

82. Submitting detailed plans indicating lot lines, streets, easements, building layout, anticipated loading information, etc. These plans are required in electronic format. We currently use AutoCad2016. Plans should consist of a plot plan, site plan, one-line diagram of proposed electrical main service panel and a sheet showing load calculations by an electrical engineer. Additional sheets may be required upon request.

83. Paying required fees - electrical permit, plan check fee, inspection fees, meter fee and cost of electrical apparatus for completing the underground line extension.

84. Granting easement for electric facilities installation / maintenance, etc.
85. Installation of all electric utility conduits and substructures.

86. The City of Banning Electric Utility shall be responsible for:

   a. Reviewing plans submitted by customer.

   b. Design an electrical utility plan for the installation of substructures and conduit by developer.

   c. Providing a cost estimate for installing an underground electrical system for this project.

   d. Inspecting all trenches prior to backfilling. 24-hour prior notice is required before inspection.

   e. Install electrical apparatus including primary conductors, terminations, metering, and transformer to provide electrical service for your project.

**Fire Department**

Fire Access and Fire Water to comply with the 2016 editions of California Fire code and California Building Code, including but not limited to the following:

87. For commercial areas, the required fire flow shall be available from Super hydrant(s) (6" x 4" x 21/2" x 21/2") spaced not more than 350 apart and shall be capable of delivering a fire flow 8000 GPM per minute for 4 hours duration at 20 psi residual operating pressure, which must be available before any combustible material is placed on the construction site.

88. Prior to building plan approval and construction, applicant/developer shall furnish two copies of the water system fire hydrant plans to Fire Department for review and approval. Plans shall be signed by a registered civil engineer, and shall confirm hydrant type, location, spacing, and minimum fire flow. Once plans are signed and approved by the local water authority, the originals shall be presented to the Fire Department for review and approval.

89. Install a complete commercial fire sprinkler system. Fire sprinkler system(s) with pipe sizes in excess of 4" in diameter will require the project Structural Engineer to certify with a "wet signature", that the structural system is designed to support the seismic and gravity loads to support the additional weight of the sprinkler system. All fire sprinkler risers shall be protected from any physical damage.

90. The PIV and FDC shall be located to the front of building within 50 feet of approved roadway and within 200 feet of an approved hydrant. Sprinkler riser room must
have indicating exterior and/or interior door signs. A C-16 licensed contractor must submit plans, along with current permit fees, to the Fire Department for review and approval prior to installation.

91. Install an alarm monitoring system for fire sprinkler system(s) with 20 or more heads, along with current permit fees, to the Fire Department for review and approval prior to installation.

92. Gate(s) shall be automatic or manual operated. Install Knox key operated switches, with dust cover, mounted per recommended standard of the Knox Company. Building plans shall include mounting location/position and operating standards for Fire Department approval.

93. Fire Apparatus access road and driveways shall be in compliance with the Riverside County Fire Department Standard number 06-05 (located at www.rcfire.org). Access lanes will not have an up, or downgrade of more than 15%. Access roads shall have an unobstructed vertical clearance not less than 13 feet and 6 inches. Access lanes will be designed to withstand the weight of 80 thousand pounds over 2 axles. Access will have a turning radius capable of accommodating fire apparatus. Access lane shall be constructed with a surface so as to provide all weather driving capabilities. Width must be a minimum 20’. 24’ preferred.

94. Commercial address must be a minimum 12” tall in contrasting color visible from the street address side of the building. Illuminated internally or externally.

95. Applicant/Developer shall mount blue dot retro-reflectors pavement markers on private streets, public streets and driveways to indicated location of the fire hydrant. It should be 8 inches from centerline to the side that the fire hydrant is on, to identify fire hydrant locations.

96. An approved Fire Department access key lock box (Minimum Knox Box 3200 series model) shall be installed next to the approved Fire Department access door to the building. If the buildings are protected with an alarm system, the lock box shall be required to have tampered monitoring. Required order forms and installation standards may be obtained at the Fire Department.

97. On the North side of the building near railroad property, if the project will only have 20’ of clearance/distance to the property line a minimum 3 hour fire resistive rating will be required on the exterior wall.

98. Maximum allowable area for F2 occupancy is 72,000 sq. ft. a minimum 3 hour area separation of fire resistive construction will be needed to achieve the increase of allowable area.
Building and Safety Department

The following conditions are required to be met at time of plan check submittal:

99. The Site shall be developed in compliance with all current model codes. All plans shall be designed in compliance with the latest editions of the California Building Codes as adopted by the City of Banning.

100. Site development and grading shall be designed to provide access to all entrances and exterior ground floor exits and access to normal paths of travel, and where necessary to provide access. Paths of travel shall incorporate (but not limited to) exterior stairs, landings, walks and sidewalks, pedestrian ramps, curb ramps, warning curbs, detectable warnings, signage, gates, lifts and walking surface material. The accessible route(s) of travel shall be the most practical direct route between accessible building entrances, site facilities, accessible parking, public sidewalks, and the accessible entrance(s) to the site. California Building Code (CBC) 11A and 11B.

   a. City of Banning enforces the State of California provisions of the California Building Code disabled access requirements. The Federal ADA standards differ in some cases from the California State requirements. It is the building owner's responsibility to be aware of those differences and comply accordingly.

   b. Disabled access parking shall be located on the shortest accessible route. Relocate parking spaces accordingly.

101. Commercial buildings on the site shall be accessible per California Building Code (CBC) 11B.

102. Site Facilities such as parking (open and covered), recreation facilities, and trash dumpsters, shall be accessible per California Building Code (CBC) 11A, 11B and 31B.

103. Separate submittals and permits are required for all accessory structures such as but not limited to, trash enclosures, patios, block walls and storage buildings.

104. Pursuant to California Business and Professions Code Section 6737, this project is required to be designed by a California licensed architect or engineer. Based on change of use and potential exiting and fire life safety improvements.

***END***
ATTACHMENT 2

Exhibits-Plans
(11" x 17" Plans Provided)
ATTACHMENT 3

Mitigated Negative Declaration
### Mitigation Measures

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<th>Aesthetics</th>
<th>Timing</th>
<th>Verification</th>
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<tr>
<td><strong>Mitigation Measure AES-1</strong></td>
<td>Prior to Issuance of Building Permits</td>
<td>Planning Department</td>
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<tr>
<td>The final photometric plan installation of lighting within the parking area and building entries shall be designed in a manner to control spillage of light from the Project Site, as required by the City of Banning Municipal Code. Attention will be made to assure no spillage of light onto adjacent residential properties to the west, north and east.</td>
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<th>Cultural Resources</th>
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<td><strong>Mitigation Measure CR-1</strong>: Prior to the issuance of grading permits, the developer shall enter into a Native American monitoring agreement with one of the consulting tribes for the project. The Native American Monitor shall be on-site during all initial ground disturbing activities including clearing, grubbing, vegetation removal, grading and trenching. The Native American Monitor shall have the authority to temporarily divert, redirect or halt the ground disturbance activities to allow identification, evaluation, and potential recovery of cultural resources.</td>
<td>Prior to the Issuance of Grading Permits.</td>
<td>Planning Department</td>
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<p>| <strong>Mitigation Measure CR-2</strong>: In the event of discovery of human remains during grading or other ground disturbance, work in the immediate vicinity shall cease and the landowner shall comply with State Health and Safety Code §7050.5 and Public Resources Code §5097.98. In the event human remains are found and identified as Native American, the landowner shall also notify the City | During Grading and Construction | Planning Department |</p>
<table>
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<th>Mitigation Measure</th>
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<td>Planning Department so that the City can ensure PRC §5097.98 is followed.</td>
<td>During Grading and Construction</td>
<td>Planning Department</td>
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**Mitigation Measure CR-3** If cultural resources are found during project construction, all ground-disturbing activities within 100 feet of the find shall be halted. A Registered Professional Archaeologist shall prepare a Cultural Resources Management Plan in consultation with the consulting tribes and the City Planning Department to include relinquishment of all artifacts through one of the following methods:

- A fully executed reburial agreement with the appropriate culturally affiliated Native American tribe or band. This reburial area should be away from any future impacts. Reburial shall not occur until all cataloguing, analysis and any necessary special studies have been completed on the cultural resources. Details of contents and location of the reburial shall be documented in a Final Report.

- Curation at a Riverside County Curation facility that meets federal standards per 36 CFR Part 79 and therefore will be professionally curated and made available to other archaeologists/researchers and tribal members for further study. The collection and associated records shall be transferred, including title, and are to be accompanied by payment of the fees necessary for permanent curation. Evidence shall be provided in the form of a letter from the curation facility identifying that archaeological materials have been received and that all fees have been paid.
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<td><strong>NOISE</strong></td>
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<td>To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the proposed project:</td>
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<tr>
<td><strong>Mitigation Measure N-1</strong>: The construction contractor shall designate a noise disturbance coordinator who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (starting too early, bad muffler, etc.) and establishment reasonable measures necessary to correct the problem. The construction contractor shall visibly post a telephone number for the disturbance coordinator at the construction site.</td>
<td>Prior to the Issuance of Grading Permits</td>
<td>Building &amp; Safety Department; Planning Division</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Mitigation Measure N-2</strong>: The construction contractor shall ensure that all on-site construction activities, including deliveries and engine warm-up, shall be restricted to the hours of 7:00 a.m. and 6:00 p.m. The contractor shall inform all workers and subcontractors of these restrictions.</td>
<td>During Grading and Construction</td>
<td>Building &amp; Safety Department; Planning Division</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Mitigation Measure N-3</strong>: The construction contractor shall ensure that all equipment driven by internal combustion engines shall be equipped with mufflers, which are in good condition and appropriate for the equipment.</td>
<td>During Grading and Construction</td>
<td>Building &amp; Safety Department; Planning Division</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation Measure</td>
<td>Details</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------</td>
<td>--------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation Measure N-4:</td>
<td>The construction contractor shall ensure that unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes) is prohibited.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation Measure N-5:</td>
<td>The construction contractor shall utilize &quot;quiet&quot; models of air compressors and other stationary noise sources where technology exists.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation Measure N-6:</td>
<td>At all times during project grading and construction, the construction contractor shall ensure that stationary noise-generating equipment shall be located as far as practicable from sensitive receptors and placed so that emitted noise is directed away from the nearest residential land uses.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Traffic**

Mitigation Measure TR-1: Construct ultimate half-section, including landscaping and parkway improvements in conjunction with development, as necessary to the satisfaction of the Department of Public Works.
<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Timing</th>
<th>Department</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mitigation Measure TR-2: The Project Proponent shall ensure that final site plans address safe access to the Project Site from Lincoln Street.</td>
<td>Prior to Issuance of Building Permits</td>
<td>Department of Public Works</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation Measure TR-3: The Project Proponent shall ensure that the access to the Project Site from Lincoln Street has a stopping sight distance of 250 feet or as specified by the Public Works Director of unobstructed line of sight.</td>
<td>Prior to Issuance of Building Permits</td>
<td>Department of Public Works</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
CITY OF BANNING
PLANNING DIVISION
INITIAL STUDY

City of Banning
Planning Division
Initial Study

DJL Properties, LLC
Zoning Change; New Construction

Project Description and Location:
This project proposes to change the zoning from General Commercial to Business Park and to construct a 146,890 square foot industrial/warehouse as an expansion of the existing businesses at 1879 W. Lincoln Street. This project includes the parcels: 538-230-014; 538-220-002; 538-220-003; 538-220-004; 540-180-041; 540-180-042; 540-180-043; 540-180-044; 540-180-045.

August 2017
Prepared by:
Environmental Regulatory Compliance, LLC, 1145 E. Orange Show Rd., Unit K, San Bernardino, CA 92408
Wade Riddering, President, REPA, CPESC

Prepared for:
City of Banning
Community Development Department, Planning Division
and
DJL Properties, LLC
2034 North Peck Road
South El Monte, CA 91733

Reviewed by:
1. Project Title: DJL Properties, LLC, Zoning Change and new construction

2. Lead agency name and address: City of Banning, Community Development Department
   99 E. Ramsey Street, Banning, CA 92220

3. Contact person and phone number: Patty Nevins, Community Development Director
   (951) 922-3160

4. Project location: Mailing Address is 1879 W. Lincoln Street, Banning, CA 92220, for parcel numbers
   538-230-014; 538-220-002; 538-220-003; 538-220-004; 540-180-041; 540-180-042; 540-180-043;
   540-180-044; 540-180-045

5. Project sponsor’s name and address: Jose Jacquez; DJL Properties, LLC
   2034 North Peck Road, South El Monte, CA 91733

6. General plan designation: The current land use designation of the project site is General Commercial

7. Zoning: Same as the General Plan, General Commercial

8. Description of project: One phase of the project consists of changing the zoning of the parcels listed above
   from General Commercial to Business Park, to be consistent with the historical and current use of industrial
   and manufacturing. Historically there has been door and window manufacturing onsite approved by the City
   of Banning Planning Department. The current use is a retail business, The Rowdy Rose, general
   warehousing; and Lawrence Equipment, Inc. which is a manufacturer of bakery equipment.

   The zone change is consistent with the current and historic use of the project site, and is also consistent with
   the surrounding zoning and uses. The mixed use of commercial, industrial, business park is generally used as
   a buffer to residential areas. The proposed project is such a buffer between the residential uses south of
   Lincoln Street and the railroad and Interstate 10 to the North of the proposed project.

   To the East of the proposed project is one parcel of General Commercial, currently used for cattle grazing,
   and further east are several industrial parcels and another General Commercial that abuts Eighth Street.

   Directly south of the new construction proposed in the project are parcels zoned Business Park and extend
   East to Eighth Street south of Lincoln Avenue.

   Directly south of the central part of the proposed project is six parcels zoned Very Low Density Residential.
   To the west of the proposed project to 22nd Street and north of Lincoln Avenue the parcels are zoned
   General Commercial and Low Density Residential. And Low Density Residential south of Lincoln Street.

   The second phase of the project the applicant proposes to construct an industrial warehousing building on
   parcels 540-180-041; 540-180-042; 540-180-043; 540-180-044; 540-180-045. This will allow the applicant to
   expand their manufacturing ability and to hire additional employees.
Future Construction
Future Construction Elevations
View from the South
View from the North

View from the East
Surrounding land uses and setting: Briefly describe the project's surroundings:

South, Very Low Density Residential, Business Park and vacant land;
West, General Commercial, Low Density Residential and vacant land;

East, Vacant Land General Commercial, Industrial;
North, Santa Fe Pacific Railway, then Interstate 10 and Commercial beyond.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

1. Colorado River Basin Regional Water Quality Control Board, Stormwater Pollution Protection Plan
2. City of Banning, Business Registration
3. City of Banning, Building & Safety
4. City of Banning, Fire Protection
5. City of Banning, Planning Department
7. Riverside County Fire, Hazardous Waste Generator Permit
8. Riverside County Fire, Hazardous Materials Permit
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

☐ Aesthetics  ☐ Agriculture and Forestry Resources  ☐ Air Quality
☐ Biological Resources  ☐ Cultural Resources  ☐ Geology/Soils
☐ Greenhouse Gas Emissions  ☐ Hazards & Hazardous Materials  ☐ Hydrology/Water Quality
☐ Land Use/Planning  ☐ Mineral Resources  ☐ Noise
☐ Population/Housing  ☐ Public Services  ☐ Recreation
☐ Transportation/Traffic  ☐ Utilities/Service Systems  ☐ Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)
On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature __________________________ Date ________________

Signature __________________________ Date ________________
EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.

4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from “Earlier Analyses,” as described in (5) below, may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c) Mitigation Measures. For effects that are “Less than Significant With Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance
I. AESTHETICS.

Would the project:

a) Have a substantial adverse effect on a scenic vista?
   
   □ Potentially Significant Impact
   □ Less than Significant with Mitigation Incorporated
   □ Less than Significant Impact
   □ No Impact

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
   
   □ Potentially Significant Impact
   □ Less than Significant with Mitigation Incorporated
   □ Less than Significant Impact
   □ No Impact

c) Substantially degrade the existing visual character or quality of the site and its surroundings?
   
   □ Potentially Significant Impact
   □ Less than Significant with Mitigation Incorporated
   □ Less than Significant Impact
   □ No Impact

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?
   
   □ Potentially Significant Impact
   □ Less than Significant with Mitigation Incorporated
   □ Less than Significant Impact
   □ No Impact

a

The proposed project of constructing a new industrial/warehouse building of 146,890 square feet is consistent with the current use. The project site is relatively flat. The San Jacinto Mountains rise steeply southeast of the project site. The San Bernardino Mountains rise steeply from the north side of the San Gorgonio Pass about two miles north of the site. The Little San Bernardino Mountains are also visible to the east. Two of the highest peaks in southern California bracket the project site: San Gorgonio Mountain in the San Bernardino Mountains, the highest point in southern California at 11,503 feet, is about 6.3 miles north of the site and visible from nearly the whole site. San Jacinto Peak in the San Jacinto Mountains, 10,834 feet, is about 6.6 miles southeast of the site. The City of Banning Municipal Code addresses construction height limits to protect scenic vistas. The proposed project will have a less than significant impact on a scenic vista.

b-c

The proposed project of constructing a new industrial/warehouse building of 146,890 square feet is consistent with the current use. The proposed project will not damage any scenic resources. The proposed project site does not contain any trees or rock outcroppings and Lincoln Street is not designated a State Scenic Highway. The proposed project will not degrade the existing visual character or quality of the site or its surroundings. There is no impact on scenic resources or visual character from the project.

d

The proposed project of constructing a new industrial/warehouse building of 146,890 square feet is consistent with the current use of adjacent parcels. Lighting will be in compliance with the City of Banning Municipal Code. The impact of light and glare is less than significant.

---

1 City of Banning Municipal Code Chapter 17.12 (Commercial and Industrial Districts), Section 17.12.030 (Development Standards)
2 http://www.sanbgo.ca.gov/newlands/16_16b/9868610698166948/16b_Scenic_Highway.pdf
3 City of Banning Municipal Code Chapter 17.12 (Commercial and Industrial Districts), Section 17.12.190 (Lighting)
II. AGRICULTURE AND FORESTRY RESOURCES.

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the State’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) Result in the loss of forest land or conversion of forest land to non-forest use?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

The proposed project site is listed as Other Land on the Department of Conservation website mapping Prime, Unique or Farmland of Statewide Importance.¹ No farmland will be converted to non-agriculture use by the proposed project.

The proposed project site is currently zoned General Commercial and seeks to change the zone to Business Park, and which does not conflict with any agriculture zoning or Williamson Act. The current use is industrial and commercial, the new construction is also industrial/commercial. According to Riverside County the proposed project site is listed as Non-Williamson Act Land, Urban and Built-Up Land.² There will be no loss of, or conversion of farmland or forest land to non-agriculture use. There is no conflict of zoning. There is no impact on agriculture or forestry resources by the proposed project.

¹ [Link](http://www.conservation.ca.gov/dcp/land/LPMpds/2016rc-15s_p.pdf) - Important Farmland 2016 Sheet 1 of 3
² [Link](http://www.conservation.ca.gov/dcp/land/Riverside_County_FV_2015-2019_Sheet_1_of_1) - Riverside County FV 2015-2019 Sheet 1 of 1

415
III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

d) Expose sensitive receptors to substantial pollutant concentrations?

e) Create objectionable odors affecting a substantial number of people?

a-e

Construction Phase
The Sample Construction Scenarios for Localized Significant Thresholds (LST) on the South Coast AQMD website was utilized on September 12, 2017 for Appendix B, a Five Acre Site Example. The lbs/day of all pollutants is well below the LST. Chart III-1 is the summary from Caleenod for the construction phase. The prevailing wind is from the southeast to the northwest. The project will not conflict with nor obstruct implementation of the applicable air quality plan. The impact on air quality is less than significant during the construction.

<table>
<thead>
<tr>
<th>Chart III-1</th>
<th>Peak Daily Construction Emissions (lb/day)</th>
<th>MT/yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ROG</td>
<td>NOX</td>
</tr>
<tr>
<td>Peak Daily Total</td>
<td>3.9112</td>
<td>34.5782</td>
</tr>
<tr>
<td>Current Emissions</td>
<td>4.8923</td>
<td>6.8678</td>
</tr>
<tr>
<td>Total</td>
<td>8.8035</td>
<td>41.446</td>
</tr>
<tr>
<td>SCAQMD Threshold</td>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>Exceed Significance</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>

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3. see appendix C for wind rose obtained from lers state University Web site at [http://mecost.ucr.edu/](http://mecost.ucr.edu/)
III. AIR QUALITY (continued)

a-e (continued)

Operating Phase

One phase of the proposed project involves a zoning change of existing industrial buildings. There is no impact from this phase. The second phase of the proposed project involves the construction of an additional industrial building of 146,890 sq. ft. The emissions from the current industrial operations were compared to the future operational emissions with the new building included and found to be less than significant.1 (see chart III-2 and III-3) The project will not conflict with an air quality plan; will not violate any air quality standard; and will not produce a net increase of any criteria pollutant.

<table>
<thead>
<tr>
<th>Chart III-2</th>
<th>Current Peak Daily Operational Emissions (lb/day)</th>
<th>MT/yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ROG</td>
<td>NOX</td>
</tr>
<tr>
<td>Peak Daily Total</td>
<td>4.8923</td>
<td>6.8768</td>
</tr>
<tr>
<td>SCAQMD Threshold</td>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>Exceed Significance</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chart III-3</th>
<th>Future Peak Daily Operational Emissions (lb/day)</th>
<th>MT/yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ROG</td>
<td>NOX</td>
</tr>
<tr>
<td>Peak Daily Total</td>
<td>9.2179</td>
<td>13.9109</td>
</tr>
<tr>
<td>SCAQMD Threshold</td>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>Exceed Significance</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>

d

See a-e above. The closest sensitive receptor is 1575 feet north with the SFPP Railway and Interstate 10 between the project site and the sensitive receptors. The prevailing wind is from the northwest to the southeast.2 The impact of substantial pollutant concentrations to sensitive receptors is less than significant.

e

The proposed project is in CalEnviroScreen census tract 6065044300. The prevailing wind, from southwest to northeast will effect census tract 6065044101 and this census tract has a population of 2973. The majority of the zoning in this tract is Highway Commercial. The number of homes within 1/4 mile radius of the proposed project site is 66. The lbs/day of all pollutants is well below the LST.3 The facility does not generate odors, and does not use chemicals that generate odors. The long-term operations of the proposed project will keep any industrial activity of the warehouse indoors. The impact of objectionable odors to a substantial number of people is less than significant.

---

1. see appendix D for Current Operational summary sheets and appendix E for future operational summary sheets from CalEnviroScreen 2016.3
2. see appendix C for wind rose obtained from Iowa State University Web site at http://ncross.usda.ars.usda.gov/sites/site.php?Site=B03Reconnetwork=C_P_A_SOS
3. see appendix A for LST worksheets obtained from SCAQMD at http://www.aphep.state.ia.us/operations/california-quality-analysis-handbook/level-2tdo-significance-thresholds
IV. BIOLOGICAL RESOURCES:

Would the project:

| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? |
|---|---|---|---|---|
| ☐ | ☐ | ☐ | ☒ |

| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? |
|---|---|---|---|---|
| ☐ | ☐ | ☐ | ☒ |

| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? |
|---|---|---|---|---|
| ☐ | ☐ | ☐ | ☒ |

| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? |
|---|---|---|---|---|
| ☐ | ☐ | ☐ | ☒ |

| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? |
|---|---|---|---|---|
| ☐ | ☐ | ☒ | ☐ |

| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? |
|---|---|---|---|---|
| ☐ | ☐ | ☒ | ☐ |

a-d

The Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) provides for special species surveys for covered species that do not fit well into design of criteria areas and expected locations of habitat reserves. The Banning planning area falls within the special survey areas for three of these species. They are the Yucaipa Onion, the Burrowing Owl, and the Los Angeles Pocket Mouse. The proposed project site is not located within any of these three special survey areas. The proposed project site has been developed and previously contained four houses. It is bounded on the north by a major Railroad and Interstate 10.

Sensitive natural communities are natural communities that are considered rare in the region by regulatory agencies, that are known to provide habitat for sensitive animal or plant species, or that are known to be important wildlife corridors. Riparian habitats are those occurring along the banks of rivers and streams. The western property line borders the Montgomery Creek for 541 feet. Montgomery Creek is ephemeral and stays dry most of the time, therefore, there is little to no riparian habitat along the creek bed. The closest construction to the Montgomery Creek will be 959 feet to the east and will not have an adverse affect on Montgomery Creek. The proposed project site is not identified as being in or near any riparian habitat or other sensitive natural community.

Wetlands are defined under the federal Clean Water Act as land that is flooded or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that normally does support, a prevalence of vegetation adapted to life in saturated soils. Wetlands include areas such as swamps, marshes, and bogs. The proposed project site is not listed as a federally protected wetland. Further the proposed project construction is more than 900 feet from the Montgomery Creek and will not involve filling or removal of creek material.

The proposed project site is not located in a critical area nor a special linkage area as set forth in the MSHCP. There is no impact on the movement, migration, or impede the use of a nurse site of any native resident or wildlife. The proposed project site has contained houses, is bounded on the north by a major Railroad and Interstate 10. There will be no impact on biological resources during construction or operation.

---

1. City of Banning General Plan Chapter IV Exhibit IV-4, IV-4a, IV-5, and IV-5a
2. City of Banning General Plan Chapter IV, Biologic Resources Element
4. https://maps.rivco.ca.gov/arcgis/rest/services/Geographic/25321689
5. City of Banning General Plan Chapter IV Exhibit IV-2
IV. BIOLOGICAL RESOURCES: (continued)

g. Current site conditions of the proposed new warehouse construction consists of three single family residences that have been removed. There are typical trees around these residences that will be removed for the construction of the new 146,890 sq. ft. industrial/warehouse building. The proposed project will include the required typical landscaping and be in compliance with the City of Banning Municipal Code.¹ The impact is less than significant.

f. The proposed project site is not located within an MSHCP Conservation Area, and is not in conflict with any conservation plan.² There is no impact on habitat conservation during construction or operation.

¹ City of Banning Municipal Code Chapter 17.32 Landscaping Standards
² Western Riverside County Multiple Species Habitat Conservation Plan Section 3.2: http://cfzona.org/Riverside/HabitatConservationPlanSection3.2.html
V. CULTURAL RESOURCES

Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?
   - □ Potentially Significant Impact
   - □ Less Than Significant with Mitigation Incorporated
   - □ Less than Significant Impact
   - □ No Impact

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?
   - □ Potentially Significant Impact
   - □ Less Than Significant with Mitigation Incorporated
   - □ Less than Significant Impact
   - □ No Impact

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?
   - □ Potentially Significant Impact
   - □ Less Than Significant with Mitigation Incorporated
   - □ Less than Significant Impact
   - □ No Impact

d) Disturb any human remains, including those interred outside of formal cemeteries?
   - □ Potentially Significant Impact
   - □ Less Than Significant with Mitigation Incorporated
   - □ Less than Significant Impact
   - □ No Impact

Historical resources are recognized as part of the environment under CEQA (PRC Section 21084.1). The California Register is an authoritative guide to the State's historical resources and to which properties are considered significant for purposes of CEQA.

The California Register includes resources listed in or formally determined eligible for listing in the National Register of Historic Places, as well as some California State Landmarks and Points of Historical Interest. Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the California Register and are presumed to be significant resources for purposes of CEQA unless a preponderance of evidence indicates otherwise (PRC Section 5024.1, 14 CCR § 4850).

Resources eligible for listing include buildings, sites, structures, objects, or historic districts that retain historic integrity and are historically significant at the local, state or national level under one or more of the following four criteria per CEQA Guidelines Section 15064.5. (3):

A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
B) Is associated with the lives of persons important to our past;
C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
D) Has yielded, may be likely to yield, information important in prehistory or history.

The proposed project site is now vacant land. Four homes have been built along Lincoln Street in the past. These homes were built in 1946, 1947 and 1979. No structures and no portion of the properties are listed on the National Register of Historic Places, as a State Landmark, on the California State Register or as a Point of Interest. There is no impact on historic resources from the proposed project.1

The area that includes the proposed project has been identified as having a low sensitivity for archaeological resources in the City of Banning General Plan.2 Of the seven parcels that will be used for the construction of the 146,890 sq. ft. warehouse/industrial building, four have had prior development. The impact on archeological resources is less than significant during construction and operation.

There are no unique geologic features onsite. The topography is flat with no rock outcroppings. No impacts to unique geologic features would occur during construction or operations.

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1. [http://pub.parks.ca.gov/docs/Resources/view/story&column=31]
2. City of Banning General Plan Chapter IV Exhibit IV-4a.
V. CULTURAL RESOURCES (continued)

d  California Health and Safety Code Section 7050.5, CEQA Section 15064.5, and Public Resources Code Section 5097.98 mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery. Specifically, California Health and Safety Code Section 7050.5 requires that, if human remains are discovered in a project site, disturbance of the site shall halt until the coroner has conducted an investigation into the circumstances, manner, and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes or has reason to believe that the human remains are those of a Native American, he or she shall contact the Native American Heritage Commission by telephone within 24 hours. Although soil-disturbing activities associated with construction of a 146,890 sq. ft. industrial/warehouse building could result in the discovery of human remains, compliance with existing law would ensure that significant impacts to human remains would not occur.
VI. GEOLOGY AND SOILS
Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
   i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zone Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.
   ii) Strong seismic ground shaking?
   iii) Seismic-related ground failure, including liquefaction?
   iv) Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

A

The majority of injuries and loss of life related to earthquakes are typically linked to the collapse of buildings and structures. While preventing the occurrence of an earthquake is not feasible, their destructive effects can be minimized through comprehensive hazard mitigation measures that include the identification and mapping of potential hazards, sensible planning, strict implementation of building codes, and the retrofitting and rehabilitation of weak structures. All construction will be completed using the most up-to-date research available to consultants, engineers and the City to mitigate any risk to less than significant.¹

¹ Based on the Riverside County Land Information System, the site is not located within an Alquist-Priolo Earthquake Fault Zone, nor is it located within 1/2 mile of any fault. The San Gorgonio Pass Fault is more than 4000 feet to the northwest.² The impact is less than significant with mitigation, see VI.a above.

¹ City of Rancho Cucamonga General Plan Section V page 20
² City of Rancho Cucamonga General Plan Exhibit 4-A

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VI. GEOLOGY AND SOILS (continued)

ii The degree of Seismic Ground Shaking is primarily based on a site's proximity to an earthquake fault. The site is not within an Aquist-Priolo Fault Zone or within 1/2 mile of any other fault zone. Seismically induced ground shaking is the most significant potential geotechnical hazard facing the Banning area. Given the City's proximity of the San Andreas and San Jacinto faults, the urban core of the City has the potential to experience very high and extremely high ground shaking values of about 50% of the force of gravity, with a 10% chance of such a seismic event occurring in 50 years. These are probabilistic values, which combine all seismic sources in the area and assess the likelihood of each source to generate an earthquake. These values are among the highest in southern California and are the result of the City's proximity to major fault systems with high earthquake recurrence rates. The effects of ground motion on structures are difficult to predict, and depend on the intensity of the quake, the distance from the epicenter to the site, the composition of soils and bedrock, building design, and other physical criteria. Based on these factors, ground shaking may cause no, little, or major structural damage or destruction; however, in general, peak ground accelerations and seismic intensity values decrease with increasing distance from the causative fault. Local conditions, such as soft soils, shallow ground water, and the presence of ridge tops, could amplify the effects of seismic waves and result in higher localized accelerations. The Uniform Building Code, California Building Code, and Unreinforced Masonry Code are the primary tools used by local agencies to ensure seismic safety in structures. The impact is less than significant with mitigation, see VI.a above.

iii Liquefaction in the proposed project site is listed as moderate in the City of Banning General Plan. Three general conditions induce liquefaction. One condition is strong ground shaking of relatively long period. Another condition is the presence of unconsolidated granular sediments. A third condition is the occurrence of water-saturated sediments within 50 feet of the ground surface. Because the alluvium that underlies the Banning areas is coarsely granular and percolates well, the water table is not within 50 feet of the ground surface. However, in the past, shallow groundwater was detected on the southernmost part of the valley before water pumping activity. The impact is less than significant with mitigation, see VI.a above.

iv Based on a field review and USGS topographic maps, the site is relatively flat. The adjacent topography is also relatively flat. There are no slopes that would create a risk on or off site due to landslides. The proposed project site is not located in an area potentially prone to landslides. Therefore, the Project is forecast to have no impact with respect to landslides.

v Based on a field review and USGS topographic maps, the project site is a flat area that will be built as an industrial/warehouse building using the NPDES requirements and the guidelines of the City of Banning Municipal Code. No loss of topsoil or erosion will occur during or after construction. There is no impact on soil erosion from the proposed project.

vi Liquefaction in the proposed project site is listed as moderate in the City of Banning General Plan. Three general conditions induce liquefaction. One condition is strong ground shaking of relatively long period. Another condition is the presence of unconsolidated granular sediments. A third condition is the occurrence of water-saturated sediments within 50 feet of the ground surface. Because the alluvium that underlies the Banning areas is coarsely granular and percolates well, the water table is not within 50 feet of the ground surface. However, in the past, shallow groundwater was detected on the southernmost part of the valley before water pumping activity. The impact is less than significant with mitigation, see VI.a above.

1 City of Banning General Plan Chapter V. Page V-16
2 City of Banning General Plan Chapter V. Exhibit V-4
3 City of Banning General Plan Chapter V. Exhibit V-2
4 City of Banning Municipal Code, Chapters 11 and 17
5 City of Banning General Plan Chapter V. Exhibit V-4

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VI. GEOLOGY AND SOILS (continued)

d The majority of the proposed project site is Greenfield Sandy Loam and a small portion is Ramona Sandy Loam. Sandy Loams are stable soils that are not heavily affected by changes in moisture content. The impact of expansive soils is less than significant.

e The Project will have no impact with respect to septic tanks because the Project does not propose the use of a septic tank system.

VII. GREENHOUSE GAS EMISSIONS

Would the project:

<table>
<thead>
<tr>
<th>Potential Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>✗</td>
<td></td>
</tr>
</tbody>
</table>

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

a-b

The construction and operational greenhouse gas emissions have been calculated using Caleemod 2016.3.1 and are well below the SCAQMD threshold of 10,000 MT/year.1 See charts III-1, 2 and 3 of this document. The effect on greenhouse gas emissions from the proposed project is less than significant.

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1 See appendix B, D, and E for construction and operational summary sheets from Caleemod 2016.3.1 and appendix A for the LST worksheets obtained from SCAQMD at http://www.aqmd.gov/hans/regulations/contaminant-registry-analysis-handbook-localized-significance-thresholds
VIII. HAZARDS AND HAZARDOUS MATERIALS
Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
   - Potentially Significant Impact
   - Less Than Significant with Mitigation Incorporated
   - Less Than Significant Impact
   - No Impact

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

   - Potentially Significant Impact
   - Less Than Significant with Mitigation Incorporated
   - Less Than Significant Impact
   - No Impact

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

   - Potentially Significant Impact
   - Less Than Significant with Mitigation Incorporated
   - Less Than Significant Impact
   - No Impact

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

   - Potentially Significant Impact
   - Less Than Significant with Mitigation Incorporated
   - Less Than Significant Impact
   - No Impact

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

   - Potentially Significant Impact
   - Less Than Significant with Mitigation Incorporated
   - Less Than Significant Impact
   - No Impact

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

   - Potentially Significant Impact
   - Less Than Significant with Mitigation Incorporated
   - Less Than Significant Impact
   - No Impact

g) Impair implementaition of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

   - Potentially Significant Impact
   - Less Than Significant with Mitigation Incorporated
   - Less Than Significant Impact
   - No Impact

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

   - Potentially Significant Impact
   - Less Than Significant with Mitigation Incorporated
   - Less Than Significant Impact
   - No Impact

a

Construction

Hazardous materials such as fuels, greases, paints, and cleaning materials would be used during construction of the proposed project. Onsite construction equipment might require routine or emergency maintenance that could result in the release of oil, diesel fuel, transmission fluid, or other materials. The use, storage, transport, and disposal of hazardous materials in construction would comply with existing regulations of several agencies including the EPA, US Department of Transportation (DOT), Occupational Safety and Health Administration (OSHA), California Division of Occupational Safety and Health (Cal/OSHA), and Riverside County Department of Environmental Health (DEH) that is the Certified Unified Program Agency (CUPA) for Riverside County. Impacts of hazardous materials would be less than significant.

Operations

The proposed project’s use of hazardous materials is similar to the adjacent land use. No materials of significant danger will be used onsite. Any that are used onsite will be listed on the Emergency Planning and Community Right-to-Know documents. Uses of hazardous materials during project operation would be subject to many of the same regulations as govern hazardous materials use in construction operations. Impacts of hazardous materials would be less than significant.

---
1. The Riverside County Department of Environmental Health is the Certified Unified Program Agency (CUPA) for Riverside County, the Certified Unified Program coordinates and makes consistent enforcement of several state and federal regulations governing hazardous materials.
VIII. HAZARDS AND HAZARDOUS MATERIALS (continued)

**b**

**Construction**

Hazardous materials such as fuels, greases, paints, and cleaning materials would be used during construction of development accommodated by the proposed project. Onsite construction equipment might require routine or emergency maintenance that could result in the release of oil, diesel fuel, transmission fluid, or other materials. The use, storage, transport, and disposal of hazardous materials in construction would comply with existing regulations of several agencies including the EPA, US Department of Transportation (DOT), Occupational Safety and Health Administration (OSHA), California Division of Occupational Safety and Health (Cal/OSHA), and Riverside County Department of Environmental Health (DEH), the Certified Unified Program Agency (CUPA) for Riverside County.\(^1\) Impacts of hazardous materials release would be less than significant.

**Operations**

Commercial and industrial land uses utilizing hazardous materials are required to prepare and submit a Hazardous Materials Business Plan (HMBP) to the DEH. A HMBP includes an inventory of hazardous materials used and stored onsite; a site map; an emergency plan; and a training program for employees. The release of hazardous materials in operations would not cause significant hazards to the public or the environment. The impact of accidental releases of hazardous materials would be less than significant.

**c**

The closest schools to the proposed project is Banning High School over 4200 feet to the southeast, and Mt. Sac Community College over 5000 feet to the southwest. An elementary school is proposed adjacent to Banning High School and approximately 4000 feet to the southeast of the proposed project, and Mt. Sac Community College has proposed expansion to be within 3000 feet of the proposed project.\(^2\) There is no impact from hazardous materials or emissions from the proposed project.

**d**

An environmental database search was conducted in August 2017. Hazardous materials sites were identified on the project site. Environmental records were identified for three parcels of the project site, as described below in Table VIII-1. None of the environmental records are considered “recognized environmental conditions” for the project site.\(^3\) There are no Underground Storage Tanks identified on the state database.\(^4\) The proposed project buildout would not create a substantial hazard for the public or the environment related to hazardous materials sites identified in the database search. The impact is less than significant.

**Table VIII-1 Parcels listed on environmental databases**

<table>
<thead>
<tr>
<th>Site Address</th>
<th>Database</th>
<th>Reason of Listing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intown Properties</td>
<td>HAZNET</td>
<td>HAZNET is a database of hazardous waste shipment manifests. One manifest shipment in 1997 of unspecified solvent mixture.</td>
</tr>
<tr>
<td>1661 W. Lincoln</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kelly Lawrence</td>
<td>HAZNET</td>
<td>One manifest shipment in 2015 of asbestos containing waste</td>
</tr>
<tr>
<td>1617 W. Lincoln</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pacific Window</td>
<td>HAZNET</td>
<td>One manifest shipment in 2004 of hydrocarbon solvents</td>
</tr>
<tr>
<td>1879 W. Lincoln</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lawrence Equipment</td>
<td>HAZNET</td>
<td>One manifest shipment in 2017 of unspecified oil-containing waste and unspecified organic liquid mixture</td>
</tr>
<tr>
<td>1879 W. Lincoln</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**e**

The proposed project is 1.95 miles west of the Banning Municipal Airport and is listed outside of the compatibility zone by the Riverside County Airport Land Use Commission.\(^5\)

---

1. The Riverside County Department of Environmental Health is the Certified Unified Program Agency (CUPA) for Riverside County, the Certified Unified Program coordinates and makes consistent enforcement of several state and federal regulations governing hazardous materials.
2. City of Banning, Rancho San Gorgonio Specific Plan Figure 6
3. Recognized environmental condition is the presence of likely presence of hazardous materials or petroleum products under conditions indicating an existing or past release or a material threat of a release into structures or soil or groundwater or surface water, even under conditions in compliance with laws

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VIII. HAZARDS AND HAZARDOUS MATERIALS (continued)

f
The project site is not within the vicinity of a private airstrip. The nearest heliport to the site is at San Gorgonio Memorial Hospital at 600 North Highland Springs Avenue in the City of Banning, about 3.3 miles northwest of the site. Over congested areas, helicopters must maintain an altitude of at least 1,000 feet above the highest obstacle within 2,000 feet of the aircraft, except as needed for takeoff and landing. Project development would not create any hazard for people living or working onsite arising from helicopters operating to or from the above mentioned heliport, and no impact would occur.

g
The emergency response plan for the City of Banning is the Riverside County Emergency Operations Plan adopted by the County Board of Supervisors in 2006. Project construction activities, and staging activities will be kept off of city streets and rights-of-ways. Impairment to emergency access of the surrounding areas will be less than significant.

h
No part of the project site site is in Very High Fire Hazard Severity Zones designated by the California Department of Forestry and Fire Prevention.2 Project development could not result in hazards arising from wildland fires. There is no impact by the proposed project.

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1. Code of Federal Regulations Title 14 Section 91.119
IX. HYDROLOGY AND WATER QUALITY

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Violate any water quality standards or waste discharge requirements?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or silation on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>f) Otherwise substantially degrade water quality?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>j) Inundation by seiche, tsunami, or mudflow?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

### Construction Phase

Project construction could generate pollutants that could contaminate water. The project site is in the Whitewater River Watershed and in the Colorado River Basin Regional Water Quality Control Board (CRB RWQCB) region. Waste-discharge requirements for discharges to stormwater for construction activities are set by the State Water Resources Control Board. Waste-discharge requirements for post-construction stormwater discharges to municipal storm drainage systems in the Whitewater River Watershed are set by the CRB RWQCB. Best management practices for mitigating potential pollutants is an integral part of the regulations governing water quality. This impact is less than significant with mitigation incorporated.

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IX. HYDROLOGY AND WATER QUALITY (continued)

a continued

Operating Phase
Project operations are not planned to generate waste water discharges, but could generate pollutants that could contaminate water. The project site is in the Whitewater River Watershed and in the Colorado River Basin Regional Water Quality Control Board (CRB RWQCB). Waste-discharge requirements for discharges to stormwater from industrial activities are set by the State Water Resources Control Board. Waste-discharge requirements for stormwater discharges to municipal storm drainage systems in the Whitewater River Watershed are set by the CRB RWQCB. Best management practices for mitigating potential pollutants is an integral part of the regulations governing water quality. This impact is less than significant with mitigation incorporated.

b

Construction Phase
A minimal amount of water is used during the construction phase of the proposed project. The impact from water use is less than significant.

Operating Phase
The 146,890 sq. ft. industrial/warehouse building will have offices and approximately 50 employees. The average water use is calculated at 18,600 gpd, with a peak use at 37,200 gpd. The projected water supply in 2015 was 13.89 mgd, with a total wet year capacity of 34.99 mgd and dry year capacity of 25.66 mgd. The impact of operations of the proposed project on water supplies is less than significant.

c-e

Construction Phase
Construction of the proposed project will not alter nor increase natural drainage.

Operating Phase
The proposed project is to construct a 146,890 sq. ft. industrial/warehouse building on 6.2 acres with the required landscaping per the City of Banning Municipal Code Development Standards. The month of January has the highest average rainfall at 3.76 inches. Accessing data from the National Oceanic and Atmospheric Administration 10 year data from the closest station in Beaumont shows that the highest hourly rainfall is .7 inches. This will calculate to an average of 633,020 gallons in the month of January and a maximum of 129,010 gallons in an hour of stormwater run-off added to the Montgomery Creek. The maximum flow through the concrete culverts under Lincoln Street is calculated to be 3,584,581 gallons per hour. Even allowing for 100% run-off the maximum run-off is only 3.5% of the maximum flow under Lincoln Street. The impact of drainage and run-off will be less than significant.

d

The proposed project does not involve the generation of industrial waste waters. Storm water discharges are regulated by the Colorado Rivers Basin Regional Water Quality Board. See IXa above. The impact is less than significant.

e

The proposed project does not include housing; there is no impact.

h

The western edge of the proposed project, parcel 538-230-014, that is adjacent to Montgomery Creek is in zone AH, flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations determined. The eastern edge of parcel 538-230-014 and the western edge of parcel 538-220-004 are zone X areas of 0.2% chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% chance of flood. The rest of the parcels in the proposed project are in zone X, areas determined to be outside the 0.2% annual chance floodplain. There is no impact of placing structures within a 100-year floodplain.

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4. Time-related maps accessed 09/13/2013 at http://gis.rredo.ca.gov/makes/modifiedly, see appendix F
5. Two lift stations pump at 2% slope with a Manning's N of 0.01 flow at 200 GPD each, see appendix G
IX. HYDROLOGY AND WATER QUALITY (continued)

The project site is not in an area mapped by FEMA as protected from 100-year floods by levees. There are no dams upstream from the site on Montgomery Creek or the San Gorgonio River that could pose a flood threat to the site due to dam failure. No impact would occur.

Seiche
A seiche is a surface wave created when an inland water body is shaken, usually by an earthquake. There are no inland bodies of water near enough to the site to pose a flood threat to the site due to a seiche, and no impact would occur.

Tsunami
A tsunami is a sea wave caused by a sudden displacement of the ocean floor, most often due to earthquakes. The site elevation ranges from about 2,215 to 2,402 feet above mean sea level, and is about 52 miles inland from the Pacific Ocean; thus, there is no potential for flooding onsite due to tsunamis.

Mudflow
A mudflow is a landslide composed of saturated rock debris and soil with a consistency of wet cement. The site consists of gently sloping terrain vegetated with grasses, and is unlikely to be capable of generating a mudflow. The general slope of the area is from the north to the south. The railway and Interstate 10, directly north, will prevent a threat of mudflow. The proposed project site slopes generally from north to south 8 feet in 556 feet. There is no impact from mudflows for the proposed project.
X. LAND USE AND PLANNING

Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
</tr>
</tbody>
</table>

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

| □                             | □                                             | □                           | ☒         |

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

| □                             | □                                             | □                           | ☒         |

The proposed project is contiguous to current industrial land use to the west, vacant land to the east, U.P. Railroad and I-10 to the north, and Lincoln Street to the south.¹ The project will not divide an established community, there is no impact.

The construction phase of the project would also require approval of the project water quality management plan (WQMP) by the CRB RWQCB. The proposed project area has historically been used for industrial purposes and is zoned commercial. Three parcels were used out of zoning as low density residential and have been vacant for a number of years. The proposed project seeks to continue use as industrial and commercial and would require discretionary approval of General Plan amendment/zone change to Business Park to reflect the proposed project. The proposed project does not conflict with a land-use plan, policy or regulation. The impact is less than significant.

The proposed project does not conflict with any natural habitat or community conservation plan.² There is no impact by the proposed project.

¹ Surrounding land use map, page 6-4 of this document

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XI. MINERAL RESOURCES

Would the project:

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a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

The proposed project site is located in an area designated Mineral Resource Zone-3 as an area containing known or inferred mineral occurrences of unknown significance. None of the project site is mapped by the CGS as containing known Portland-cement concrete (PCC) grade aggregate resources (CGS 2008). Project development would not cause a loss of availability of known mineral resources valuable to the region and the state, no impact would occur.

b) No mining site in or near the project is identified in the City of Banning General Plan. The nearest mine to the project site present on the Office of Mine Reclamation’s map is the Banning Quarry, mine ID 91-33-00012. It is an active sand and gravel mine located about 2.2 miles northeast of the site project. No impact would occur to mineral resources.

---

1. City of Banning General Plan Chapter IV Exhibit P-53
## XII. NOISE

Would the project result in:

<table>
<thead>
<tr>
<th>a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
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<th>b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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<th>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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<tr>
<th>d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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<tr>
<th>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
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<tr>
<th>f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
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### a-b

Groundborne Vibration and noise is most typically associated with operation of heavy construction equipment. Because of the flat topography of the site and no demolition a minimal amount of heavy equipment is required. There are 24 homes within 1000 feet of the project site, the closest is 300 feet south. The Project is required to comply with the mandatory noise requirements contained in Section 8.44.090.E and F of the Banning Municipal Code for construction activities and the operation of an industrial/warehouse building. Operation of the industrial/warehouse building will not produce groundborne vibrations beyond six additional truck trips per day. The impacts from noise and groundborne vibrations are considered to be less than significant.

### c

**Construction Phase**

Permanent noise is typically generated by building mechanical equipment, such as heating and air conditioning units, and by vehicle traffic associated with the use of a site. The construction of the industrial warehouse building will not produce permanent noise.

**Operating Phase**

The proposed project is anticipated to produce 56 new vehicle trips per day beyond current levels. These vehicle trips produce similar noise levels to those that already occur on Lincoln Street. The average daily trips on Lincoln Street between 8th and 22nd Streets is 2,500.

All industrial activity will occur indoors. The impact of permanent noise is less than significant.

### d

**Construction Phase**

During the construction phase of the proposed project it is anticipated that there will be an increase in daytime noise levels. These will be managed by the construction schedule. Per Section 8.44.090.E and F of the City of Banning Municipal Code, construction activity is required to be limited to certain hours and days to minimize noise impacts. This is a mandatory requirement. Therefore, impacts are forecast to be less than significant.

---

1. **City of Banning 2011 Engineering and Traffic Surveys, Table 3**
XII. NOISE (continued)

d continued

Operating Phase

The proposed project of an industrial/warehouse building is anticipated to produce 56 new vehicle trips per day beyond current levels. These vehicle trips produce similar noise levels, during a similar time period, to those that already occur on Lincoln Street. The average daily trips on Lincoln Street between 8th and 22nd Streets is 2,500.\(^1\) The industrial activity will occur indoors and the nearest residence is 300 feet south of the industrial buildings. The impacts of temporary, periodic noise is less than significant.

e

The proposed project is 1.95 miles west of Banning Municipal Airport. The proposed project is outside the 55 dB CNEL noise contour of the airport and will not expose people residing or working at the proposed project to excessive noise levels.\(^2\) There will be no impact.

f

The proposed project is not within the vicinity of a private air strip. There will be no impact.

---

1. City of Banning 2011 Engineering and Traffic Surveys; Table 1
2. Riverside County Airport Land Use Commission, Banning Municipal Airport, Map-05-1
XIII. POPULATION AND HOUSING

Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

The proposed project will increase employment by 50, it is anticipated that 42 will be from the local area. The proposed project does not propose new homes and is not expected to induce population growth. The impact of the proposed project on population and housing is expected to be less than significant.

The proposed project will be constructed on parcels that have had four single family houses that have been removed and the land is now vacant. There is no impact from the proposed project.
XIV. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

<table>
<thead>
<tr>
<th>Public Services</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>a) Fire protection?</td>
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<td>b) Police protection?</td>
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<tr>
<td>c) Schools?</td>
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<td>d) Parks?</td>
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<tr>
<td>e) Other public facilities?</td>
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</table>

a) Fire Services - The Riverside County Fire Department (RCFD) provides fire protection and emergency medical services to the City of Banning. Fire Station 89 is located 1.5 driving miles northeast of the project site. The proposed project will add a 146,890 square foot industrial warehouse building with automatic sprinklers. The impact on fire services will be less than significant.

b) Police Protection - The Banning Police Department (BPD) provides police protection to the City of Banning. The Banning Police Department consists of 41 sworn personnel and 20 classified personnel. The police station is located at 125 E. Ramsey Street. The proposed project will add a 146,890 square foot industrial warehouse building and add 50 employees. The impact on police services will be less than significant.

c) Schools - The project site is in the Banning Unified School District (BUSD). The proposed project will increase employment by 50, it is anticipated that 42 will be from the local area, which will have less than significant impact on the BUSD.

d) Parks - The proposed project will increase employment by 50, it is anticipated that 42 will be from the local area, which will have less than significant impact on city parks.

e) Other public facilities - The proposed project will increase employment by 50, it is anticipated that 42 will be from the local area, which will have less than significant impact on any other public facilities.
XV. RECREATION

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? 

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? 

a. The proposed project will increase employment by 50, it is anticipated that 42 will be from the local area. There will not be a substantial increase in the use of local recreation facilities. There is no impact from the proposed project.

b. The proposed project does not included recreational facilities and will not require the expansion of existing or the construction of new recreational facilities. There is no impact from the proposed project.
XVI. TRANSPORTATION/TRAFFIC

Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

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<th>Potentially Significant Impact</th>
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b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

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e) Result in inadequate emergency access?

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f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

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<th>Potentially Significant Impact</th>
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a-b  

Construction Phase  
During construction all equipment and supplies will be staged on the proposed project site and away from roadways. There is no impact.

Operating Phase  
The proposed project is anticipated to produce 6 new truck trips per day beyond current levels. These vehicle trips produce similar noise levels to those that already occur on Lincoln Street. The addition of 50 employees is anticipated to add 50 vehicle trips per day. The average daily trips on Lincoln Street between 8th and 22nd Streets is 2,500. The impact is expected to be less than significant.

c  
The proposed project is 1.95 miles west of the Banning Municipal Airport runway and is not within the Airport Influence Area. The project will be constructed in compliance with the City of Banning Municipal Code Building Standards for Commercial/Industrial projects. There will be no impact from this project.

d  
Construction  
All construction equipment will be staged on the project site ensuring that the roadway stays clear. Vehicle trips will be limited to persons working at the site during construction. There will not be design hazards.

Operational  
The existing roadway in front of the current commercial/industrial buildings is wider than the majority of Lincoln Street. This reduces the hazards of truck traffic entering the new industrial/warehouse building drive approaches. The impact of design features is less than significant.

1. City of Banning 2011 Engineering and Traffic Survey: Table 1  
2. Riverside County Land Use Commission, Banning Municipal Airport, Map Section 1  
http://www.rivco.org/Public/80be230a4f257d07c057243043b06e34/Municipal.pdf?ver=2016-08-19-111352-640
XVI. TRANSPORTATION/TRAFFIC (continued)

e
All portions of the project site will be fully accessible to emergency vehicles during construction and will remain accessible during operations. There is no impact to emergency vehicle access.

f
The Project does not conflict with any policies, plans, or programs that support use of alternative transportation such as bus service, bike lanes, or other modes of transportation. Thus, there are no impacts to alternative modes of transportation.
XVII. UTILITIES AND SERVICE SYSTEMS

Would the project:

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<td>a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
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<tr>
<td>b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>○</td>
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<tr>
<td>c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>○</td>
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<td>✗</td>
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<tr>
<td>d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?</td>
<td>○</td>
<td>○</td>
<td>✗</td>
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<tr>
<td>e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?</td>
<td>○</td>
<td>○</td>
<td>✗</td>
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<td>f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?</td>
<td>○</td>
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<tr>
<td>g) Comply with federal, state, and local statutes and regulations related to solid waste?</td>
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Construction Phase

Project construction could generate pollutants that could contaminate water. The project site is in the Whitewater River Watershed and in the Colorado River Basin Regional Water Quality Control Board (CRB RWQCB) region. Waste-discharge requirements for discharges to stormwater during construction activities are set by the State Water Resources Control Board. Waste-discharge requirements for post-construction stormwater discharges to municipal storm drainage systems in the Whitewater River Watershed are set by the CRB RWQCB. Best management practices for mitigating potential pollutants is an integral part of the regulations governing water quality. This impact is less than significant with mitigation incorporated.

Operating Phase

Project operations are not planned to generate waste water discharges to the utility, but could generate pollutants that could contaminate storm water. The project site is in the Whitewater River Watershed and in the Colorado River Basin Regional Water Quality Control Board (CRB RWQCB) region. Waste-discharge requirements for discharges to stormwater from industrial activities are set by the State Water Resources Control Board. Waste-discharge requirements for stormwater discharges to municipal storm drainage systems in the Whitewater River Watershed are set by the CRB RWQCB. Best management practices for mitigating potential pollutants is an integral part of the regulations governing water quality. This impact is less than significant with mitigation incorporated.

---

XVII. UTILITIES AND SERVICE SYSTEMS (continued)

b

Construction Phase
Project construction will not generate wastewater and will not require the construction of new water or wastewater treatment facilities. There is no impact from the proposed construction project.

Operating Phase
The project operating phase will not result in the construction of new water or wastewater treatment facilities. The 146,890 sq. ft. industrial/warehouse building will have offices and approximately 50 employees. The average water use is calculated at 18,600 gpd, with a peak use at 37,200 gpd. The projected water supply in 2015 was 13.89 mgd, with a total wet year capacity of 34.99 mgd and dry year capacity of 25.66 mgd. The impact of operations of the proposed project is less than significant. Using the City’s wastewater generation rates, the project would generate approximately 9,300 gpd of wastewater. The existing wastewater treatment plant is designed to treat an average flow of 3.6 mgd and a peak flow of 7.2 mgd. The impact of the proposed project on the wastewater treatment facilities is less than significant.

c

Construction Phase
The project site is in the Whitewater River Watershed and in the Colorado River Basin Regional Water Quality Control Board (CRB RWQCB) region. Waste-discharge requirements for discharges to stormwater for construction activities are set by the State Water Resources Control Board. Waste-discharge requirements for post-construction stormwater discharges to municipal storm drainage systems in the White River Watershed are set by the CRB RWQCB. Best management practices for mitigating potential pollutants is an integral part of the regulations governing water quality. This impact is less than significant with mitigation incorporated.

Operating Phase
The proposed project is to construct a 146,890 sq. ft. industrial/warehouse building on 6.2 acres with the required landscaping per the City of Banning Municipal Code Development Standards. The month of January has the highest average rainfall at 3.76 inches. Accessing data from the National Oceanic and Atmospheric Administration 10 year data from the closest station in Beaumont shows that the highest hourly rainfall is .7 inches. This will calculate to an average of 633,020 gallons in the month of January and a maximum of 129,010 gallons in an hour of stormwater run-off added to the Montgomery Creek. The maximum flow through the concrete culverts under Lincoln Street is calculated to be 3,584,581 gallons per hour. The impact will be less than significant.

d

Construction Phase
Project construction will not use any significant amount of water. The impact from the proposed project is expected to be less than significant.

Operating Phase
The project operating phase will not require new or expanded water entitlements. The 146,890 sq. ft. industrial/warehouse building will have offices and 50 employees. The average water use is calculated at 18,600 gpd, with a peak use at 37,200 gpd. The projected water supply in 2015 was 13.89 mgd, with a total wet year capacity of 34.99 mgd and dry year capacity of 25.66 mgd. The average water year supply surplus is 5.187 acre-ft/year or 4.6 mgd. The impact from the proposed project is expected to be less than significant.

---

3. Rancho San Gabriel Specific Plan Draft EIR. June 2016, 3-1-1.14
5. City of Banning 2010 Urban Water Management Plan Table 2-1
7. Two 30” concrete pipe at 2% slope with a Manning K of 0.14 feet/ft. 584 ft each, see appendix G
10. City of Banning 2010 Urban Water Management Plan Table 2-9
XVII. UTILITIES AND SERVICE SYSTEMS (continued)

g The Proposed Project’s wastewater effluent will be collected by the City of Banning sewer system and transported to the City’s Wastewater Reclamation Plant. This plant has a secondary treatment capacity of 3.6 million gallons per day, and a designed capacity of 7.8 MGD. The average throughput of the plant is 2.4 MGD from 2005-2010. The predicted wastewater generation average rate of the project is 9,750 GPD. The increase of total throughput of the plant with the addition of the wastewater of the Project is minuscule to the 2.4 million gallons per day, and does not impact the design capacity of 3.6 million gallons per day. Since the Proposed Project will not result in a substantial impact on the wastewater facility and an expansion will eventually be constructed, impacts will be less than significant.

f Construction
The project proposed to construct a 146,890 sq. ft. industrial/warehouse building. The construction activities will generate a minimal amount of solid waste.

Operations
The project will generate solid waste from the warehouse offices supporting 50 new employees. Waste Management provides service to the City. The new warehouse/industrial building is estimated to generate 186 tons/year for solid waste. Solid waste is most likely to be transported to the Lamb Canyon Landfill. According to CalRecycle, the Lamb Canyon landfill has an estimated closure date of 04/01/2029 accepting 5,500 tons/day. The impact from the proposed project is less than significant.

Waste Management provides service to the Project site. Any solid waste disposal will be in compliance with the City’s mandatory requirements. Therefore, no impacts are forecast to occur.

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1 City of Banning 2010 Urban Water Management Plan, page 99
2 CalRecycle 2019. 5 year forecast comparisons. are spindks D and E
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

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<tr>
<th>Potentially Significant Impact</th>
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b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

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c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

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a
The project site is considered highly disturbed, developed, and is devoid of native vegetation. Single family houses have existed on the site and have been removed. The project site does not contain any habitat to support candidate, sensitive, or special-status species and the project site is not within a designated critical habitat of any species. No drainage features, ponded areas, or riparian habitat exist on the project site. Likewise, no rare or endangered species have been found to inhabit the site. There are no structures of a historical nature, and no archaeological or paleontological resources are known to exist on site. Therefore, the project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory, and no impacts related to these topics would occur with project implementation.

b
The project is not considered growth inducing and will not alter planned development patterns in the region. Also, no expansion of supporting infrastructure would be required to accommodate the proposed project. Therefore, no impacts related to this project are individually limited, but cumulatively considerable.

c
The areas of potential significant impact are V. Geology and Soils; IX Water Quality and XVII Utilities.

V. Geology and soils are affected by earthquakes and liquefaction. The site is not within an Alquist-Priolo Fault Zone or within 1/2 mile of any other fault zone. Liquefaction in the proposed project site is listed as moderate in the City of Banning General Plan. The water table is not within 50 feet of the ground surface. All construction will be completed using the most up-to-date research available to consultants, engineers and the City to mitigate any risk to less than significant.
IX Water Quality has the potential to be affected by industrial activity. Waste-discharge requirements for discharges to stormwater for construction activities and industrial are set by the State Water Resources Control Board. During construction the project site will operate with a construction Storm Water Pollution Prevention Plan (SWPPP). During operations the business will obtain an Industrial SWPPP. These SWPPPs have incorporated within them Best Management Practices to minimize potential pollutants in stormwater discharges.

XVII Utilities has the same potential as Water Quality and the discussion is the same.
## References

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<th>Page</th>
<th>Ref. #</th>
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<tr>
<td>12</td>
<td>1</td>
<td></td>
<td>City of Banning Municipal Code Chapter 17.12 (Commercial and Industrial Districts), Section 17.12.030 (Development Standards)</td>
</tr>
<tr>
<td>12</td>
<td>2</td>
<td></td>
<td><a href="http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/">http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/</a></td>
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<td>see appendix C for wind rose obtained from Iowa state University Web site at <a href="http://mesonet.agron.iastate.edu/sites/site.php?station=Buo&amp;network=CA_ASOS">http://mesonet.agron.iastate.edu/sites/site.php?station=Buo&amp;network=CA_ASOS</a></td>
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<td>see appendix D for Current Operational summary sheet and appendix E for Future Operational Summary Sheet from Caleenod 2016.3.3</td>
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<td>The Riverside County Department of Environmental Health is the Certified Unified Program Agency (CUPA) for Riverside County, the Certified Unified Program coordinates and makes consistent enforcement of several state and federal regulations governing hazardous materials</td>
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<td>The Riverside County Department of Environmental Health is the Certified Unified Program Agency (CUPA) for Riverside County, the Certified Unified Program coordinates and makes consistent enforcement of several state and federal regulations governing hazardous materials</td>
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<td>A recognized environmental condition is the presence or likely presence of hazardous materials or petroleum products under conditions indicating an existing or past release or a material threat of a release into structures or soil or groundwater or surface water, even under conditions in compliance with laws.</td>
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<td>Two 30&quot; concrete pipes at 2% slope with a Manning N of .011 flow 68.554 cfs each, see appendix G</td>
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<td>Western Riverside County Multiple Species Habitat Conservation Plan, <a href="http://recima.org/Portals/0/hscep/volume1/sec3.html">http://recima.org/Portals/0/hscep/volume1/sec3.html</a></td>
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<td>Construction General Permit order 2009-00009-DWQ; <a href="https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.shtml#construction">https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.shtml#construction</a></td>
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<td>Two 30&quot; concrete pipes at 2% slope with a Manning N of .011 flow 68.534 cfs each, see appendix G</td>
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<td>see appendix D for Current Operational summary sheet and appendix E for Future Operational Summary Sheet from Calmod 2016.3.3</td>
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448
### Summary of Five Acre Site Example Results By Phase

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<th>PM10</th>
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<td>68.4</td>
<td>7.2</td>
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<td>46.2</td>
<td>2.8</td>
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<td>34.3</td>
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<td>698</td>
<td>405</td>
<td>189</td>
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<td>Exceed Significance?</td>
<td>NO</td>
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* For illustration purposes only, this analysis is based on the most stringent LSTs. Please consult App. C of the Methodology Paper for applicable LSTs.
1.0 Project Characteristics

1.1 Land Usage

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<th>Land Uses</th>
<th>Size</th>
<th>Metric</th>
<th>Lot Acreage</th>
<th>Floor Surface Area</th>
<th>Population</th>
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<td>Manufacturing</td>
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<td>1000sqft</td>
<td>3.46</td>
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<td>Other Asphalt Surfaces</td>
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<td>Other Non-Asphalt Surfaces</td>
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<td>1000sqft</td>
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<td>40,150.00</td>
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<td>Parking Lot</td>
<td>97.59</td>
<td>1000sqft</td>
<td>1.32</td>
<td>97,590.00</td>
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1.2 Other Project Characteristics

- Urbanization: Rural
- Wind Speed (m/s): 2.4
- Precipitation Freq (Days): 23
- Operational Year: 2019
- Climate Zone: 10
- Utility Company: Southern California Edison

- CO2 Intensity (lb/MMBTU): 702.44
- CH4 Intensity (lb/MMBTU): 0.025
- N2O Intensity (lb/MMBTU): 0.006

1.3 User Entered Comments

Only CalEEMod defaults were used.
Appendix B

Project Characteristics -
Land Use - rounding
Construction Phase - only concrete pads of houses to demolish
Off-road Equipment - no
Off-road Equipment - No construction
Off-road Equipment - only concrete pads of houses to demolish
Off-road Equipment - No construction
Off-road Equipment - no
Off-road Equipment - Customer Input
Trips and VMT - Customer Input
On-road Fugitive Dust - estimates
Demolition -
Grading -
Architectural Coating - no construction
Vehicle Trips - Construction Only
Area Coating - construction only
Energy Use - construction only
Water And Wastewater - construction only
Solid Waste - construction only
Construction Off-road Equipment Mitigation -
Area Mitigation -

Energy Mitigation -
Road Dust - construction calcs only
Consumer Products - construction calcs only
Landscape Equipment - construction calcs only
Waste Mitigation - Comply with waste diversion goal of 75% per AB341
Water Mitigation -
## 2.0 Peak Daily Emissions

### Peak Daily Construction Emissions

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<th>ROG</th>
<th>NOX</th>
<th>CO</th>
<th>SO2</th>
<th>PM10</th>
<th>PM2.5</th>
<th>ROG</th>
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<th>CO</th>
<th>SO2</th>
<th>PM10</th>
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<td>2017</td>
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<td>71.8455 W</td>
<td>13.5295 S</td>
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<td>2.4537 W</td>
<td>1.2910 W</td>
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<td>Site Preparation</td>
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<td>0.0181 S</td>
<td>2.0334 W</td>
<td>4.0245 W</td>
<td>2.6175 S</td>
<td>10.7127 W</td>
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<td>2017</td>
<td>Grading</td>
<td>3.2598 W</td>
<td>15.5782 W</td>
<td>18.2962 S</td>
<td>0.0174 S</td>
<td>1.4769 W</td>
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<td>2.5299 W</td>
<td>34.1762 W</td>
<td>12.3792 S</td>
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<td>2018</td>
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<td>2.8773 W</td>
<td>33.5676 W</td>
<td>17.9125 S</td>
<td>0.0053 S</td>
<td>12.3957 W</td>
<td>1.2953 W</td>
<td>2.6781 W</td>
<td>31.3680 W</td>
<td>12.5121 S</td>
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<td>Building Construction</td>
<td>3.9112 W</td>
<td>30.9965 W</td>
<td>31.7125 S</td>
<td>0.0043 S</td>
<td>4.0055 W</td>
<td>2.1355 W</td>
<td>5.5129 W</td>
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<td>Pouring</td>
<td>3.1091 S</td>
<td>17.6076 W</td>
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<td>1.9004 S</td>
<td>15.3725 W</td>
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<td>1.5501 W</td>
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<td>0.1603 S</td>
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<td><strong>Peak Daily Total</strong></td>
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| Earned Significance | NO | NO | NO | NO | NO | NO |
### 3.0 Annual GHG Emissions

**Annual GHG**

#### Annual GHG

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<th>CO2 (Mt yr)</th>
<th>CH4 (Mt yr)</th>
<th>NOx (Mt yr)</th>
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[BUO] BEAUMONT
Windrose Plot [All Year]
Period of Record: 01 Sep 1997 - 01 Sep 2001

Generated: 12 Sep 2017

Summary
n: 10882
Missing: 6
Calm: 2.6%
Avg Speed: 9.6 mph
### 1.0 Project Characteristics

#### 1.1 Land Usage

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#### 1.2 Other Project Characteristics

- **Urbanization**: Rural
- **Wind Speed (m/s)**: 2.4
- **Precipitation Freq (Days)**: 25
- **Climate Zone**: 10
- **Operational Year**: 2017
- **Utility Company**: Southern California Edison
- **CO2 Intensity (lb/MWhr)**: 702.44
- **CH4 Intensity (lb/MWhr)**: 0.029
- **NOx Intensity (lb/MWhr)**: 0.006

#### 1.3 User Entered Comments

Only CalEEMod defaults were used.
Appendix D

Project Characteristics - Current Operations

Land Use - Small Specialized retail store and large retail storage warehouse.

Construction Phase - No construction current Operational only

Off-road Equipment - no

Off-road Equipment - No construction

Off-road Equipment - No Construction

Off-road Equipment - No construction

Off-Road Equipment - no

Off-road Equipment - No Construction

Trips and VMT - no construction

On-road Fugitive Dust - no construction

Grading - No construction

Architectural Coating - no construction

Vehicle Trips - no commercial customers

Energy Use -

Mobile Land Use Mitigation -

2.0 Peak Daily Emissions

Peak Daily Construction Emissions

Peak Daily Construction Emissions
### Appendix D

Lawrence Equipment - Riverside-South Coast County, Summary Report

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<th>BC</th>
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### Peak Daily Operational Emissions

#### Peak Daily Operational Emissions

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### 3.0 Annual GHG Emissions

457
## Annual GHG

### Identified

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### Significant Thresholds

- 10,000

**Significant?** No
Appendix E

Lawrence Equipment - Riverside-South Coast County, Summary Report

Lawrence Equipment
Riverside-South Coast, Summary Report

1.0 Project Characteristics

1.1 Land Usage

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1.2 Other Project Characteristics

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| CO2 Intensity (lb/MWhr) | 702.44 | CH4 Intensity (lb/MWhr) | 0.029 | N2O Intensity (lb/MWhr) | 0.006 |

1.3 User Entered Comments

Only CalEEMod defaults were used.
Appendix E

Project Characteristics - Current Operations
Land Use - Small Specialized retail store and large retail storage warehouse.
Construction Phase - No construction current Operational only
Off-road Equipment - no
Off-road Equipment - No construction
Off-road Equipment - No Construction
Off-road Equipment - No construction
Off-road Equipment - no
Off-road Equipment - No Construction
Trips and VMT - no construction
On-road Fugitive Dust - no construction
Grading - No construction
Architectural Coating - no construction
Vehicle Trips - no commercial customers
Energy Use -
Mobile Land Use Mitigation -

2.0 Peak Daily Emissions

Peak Daily Construction Emissions

Peak Daily Construction Emissions
### Appendix E

CalEEMod Version: CalEEMod.2016.3.1
Page 3 of 4

**Lawrence Equipment - Riverside-South Coast County, Summary Report**

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<td>Exceed Significance?</td>
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### Peak Daily Operational Emissions

**Peak Daily Operational Emissions**

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<tr>
<th>Operational Activity</th>
<th>ROG</th>
<th>NOX</th>
<th>CO</th>
<th>SO2</th>
<th>PM10</th>
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<tr>
<td>On-Site Area</td>
<td>7.3561 B</td>
<td>0.0000e+00 S</td>
<td>0.0000 S</td>
<td>1.0000e-01 S</td>
<td>1.0000e-01 S</td>
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<td>Off-Site Middle</td>
<td>1.3727 B</td>
<td>11.0520 W</td>
<td>25.0700 W</td>
<td>0.0100 W</td>
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<td>Peak Daily Total</td>
<td>9.5785 B</td>
<td>15.0100 W</td>
<td>25.0211 B</td>
<td>0.0001 B</td>
<td>2.3222 W</td>
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<td>At District Threshold</td>
<td>55</td>
<td>55</td>
<td>55</td>
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<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
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### 3.0 Annual GHG Emissions

461
### Annual GHG

#### Annual GHG

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<tr>
<th>Data Activity</th>
<th>2015</th>
<th>2016</th>
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<tr>
<td>Construction</td>
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Pipe Flow Version 5.1 (www.keingers.com)

Pipe Flow Results
10/9/17, 9:29:55 AM

Diameter: 30 in  
Manning N: 0.011  
Slope: 2%  
Flow: 68.554 cfs  
Velocity: 13.966 ft/s
ATTACHMENT 4

Public Hearing Notice
NOTICE OF PUBLIC HEARING AND INTENT TO ADOPT AN INITIAL STUDY/MITIGATED
NEGATIVE DECLARATION FOR GENERAL PLAN AMENDMENT 18-2501, ZONE CHANGE
18-3501 AND DESIGN REVIEW 18-7001 FOR THE PROPOSED DEVELOPMENT OF A
146,880 SQUARE-FOOT LIGHT MANUFACTURING AND WAREHOUSE BUILDING IN THE
GENERAL COMMERCIAL (GC) LAND USE DISTRICT ON DEVELOPED AND VACANT REAL
PROPERTIES LOCATED AT 1509 WEST LINCOLN, 1517 WEST LINCOLN, 1511 WEST
LINCOLN (APNs: 538-220-01A, 538-220-002, 538-220-003, 538-220-004, 540-180-041,
NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning Planning
Commission, to be held on Wednesday, January 16, 2019, at 5:30 p.m. (or soon thereafter)
in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider an
Initial Study/Mitigated Negative Declaration for, and the approval of, General Plan Amendment
18-2501 (GPAM 18-2501) and Zone Change 18-3501 (DCM 18-3501) to re-designate and re-zone
19.69 acres of real property from the General Commercial to Business Park, and Design
Review 18-7001 to allow construction of a single story, 146,880 square-foot light
manufacturing and warehouse building. The proposed building would include 72,446 square
feet of light manufacturing use and 72,446 square feet of industrial warehousing use. In
addition, 114 parking spaces and related fencing, walls, and landscaping are proposed on-site.
Information regarding the Initial Study/Mitigated Negative Declaration, General Plan
Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001 can be obtained by
contacting the City’s Community Development Department at (951) 923-3125, 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.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, P.O. Box 958, 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
65022).
BY ORDER OF THE INTERIM COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF
BANNING, CALIFORNIA.
Marquita Matsa, AICP
Interim Community Development Director
Date: January 1, 2019
Date Published: January 4, 2019
Published in
The Record Gazette
No. 101326
1-04-19
ATTACHMENT 4
Planning Commission Resolution
No. 2019-01
RESOLUTION 2019-01


WHEREAS, an application for General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001 to permit the development of a proposed 146,890 square foot Light Manufacturing and Warehouse building (the "Project") has been duly filed by:
Applicant / Owner: David Hidalgo Architects, Inc.
Project Sponsor: DJL Properties, LLC.
Authorized Agent: David Hidalgo Architects, Inc.
Project Location: North side of Lincoln Avenue at 1879 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street and 1589 West Lincoln Street, between 22nd Street and 8th Street, 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044, & 540-180-045.
Lot Area: 19.69 acres;

WHEREAS, the Planning Commission has the authority to review and make recommendations to the City Council concerning General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001;

WHEREAS, in accordance with Government Code Sections 65353, 65090, and 65091, on January 4, 2019, the City gave public notice, by advertisement in the Record Gazette newspaper, of a public hearing concerning the Project, which included the General Plan Amendment 18-2501, Zone Change 18-3501, Design Review 18-7001, and Environmental Assessment 18-1501 (a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP). The public hearing notice was also mailed to the owner of the subject real property, the owner's duly authorized agent, the Project applicant, and property owners within 300 feet of the Project site on or before January 6, 2019. Further, in accordance with Public Resources Code Section 21165, a Notice of Availability and Public Hearing Notice was advertised in the Record Gazette Newspaper on January 11, 2019, announcing the 20-day circulation for public review and comment of the draft MND for the proposed Project. Copies of the draft MND were made available at Banning City Hall and Banning Public Library;

WHEREAS, in accordance with Government Code Section 65353, on January 16, 2019, the Planning Commission held the public hearing at which interested parties had an opportunity to testify in support of, or opposition to, General Plan Amendment 18-2501, Zone Change 18-3501, Design Review 18-7001, and at which the Planning Commission considered the Project, each of the proposed entitlements, and the MND; and

WHEREAS, at this public hearing on January 16, 2019, the Planning Commission heard public comments on, and adopted this Resolution recommending that the City Council adopt the MND and MMRP for the Project, and approve General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby recommend to the City Council of the City of Banning as follows:

SECTION 1: California Environmental Quality Act Findings and Recommendation for Adoption of Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. The Planning Commission of the City of Banning does hereby recommends
that the City Council of the City of Banning make the following environmental findings and
determinations in connection with the approval of the Project:

A. Pursuant to the California Environmental Quality Act ("CEQA") (Cal. Pub.
Res. Code § 21000 et seq.), the State Guidelines (14 Cal. Code Regs. §
15000 et seq.), and the City's Local Guidelines, City staff prepared an Initial
Study of the potential environmental effects of the approval of the Project
as described in the Initial Study. Based upon the findings contained in that
Study, City staff determined that, with the incorporation of mitigation
measures, there was no substantial evidence that the Project could have a
significant effect on the environment and a Mitigated Negative Declaration
(MND) was prepared in full compliance with the requirements of CEQA.

B. Thereafter, City staff provided public notice of the public comment period
and of the intent to adopt the MND as required by law. The public comment
Copies of the documents have been available for public review and
inspection at City Hall, 99 E. Ramsey Street, Banning, California 92220, and
the Banning Public Library, 21 West Nicolet Street, Banning, California
92220. The City did not receive any comments during the public
review period.

C. The City Council reviewed MND and the MMRP, which is on file with the
Planning Department and incorporated herein by this reference, and all
comments received regarding the MND and, based on the whole record
before it, finds that: (1) the MND was prepared in compliance with CEQA;
(2) with the incorporation of mitigation measures, there is no substantial
evidence that the Project will have a significant effect on the environment;
and (3) the MND reflects the independent judgment and analysis of the City
Council.

D. Based on the findings set forth in this Resolution, the City Council hereby
adopts the MND and MMRP for the Project.

E. The Community Development Director is authorized to file a Notice of
Determination in accordance with CEQA.

SECTION 2: Findings for Recommendation of Approval of General Plan
Amendment 18-2501. The Planning Commission of the City of Banning does hereby
recommend that the City Council of the City of Banning find and determine that General
Plan Amendment 18-2501 should be approved because:

A. Finding: The proposed amendment is internally consistent with the
General Plan.

Findings of Fact:
Upon City Council approval of the requested General Plan Amendment, the
site's land use designation will be changed to Business Park, and the
proposed development would be consistent with uses permitted within the Business Park land use designation. The Business Park land use designation is intended to allow “light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores”.

B. Finding: That the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Findings of Fact:
The proposed Project will complement the adjoining light industrial manufacturing and warehouse facility to the west and allow the expansion of the existing facility. As demonstrated in the analysis contained in the Planning Commission staff report dated January 16, 2019, and the MND prepared for the Project (Environmental Assessment 18-1501), there are no features unique to the Project site or the proposed use that would create conditions detrimental to the public interest, health, safety, convenience, or welfare of the City.

C. Finding: That the proposed amendment would maintain the appropriate balance of land uses within the City.

Findings of Fact:
Upon City Council approval of the requested General Plan Amendment, the site’s land use designation will be changed to Business Park (BP), and the proposed development would be consistent with uses permitted within the Business Park land use designation. The Business Park land use designation is intended to allow “light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores”.

The Project is consistent with the General Plan Land Use Element Policy which states: “The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands”. The land-use designation of Business Park allows the proposed light manufacturing and warehouse use. The proposed light manufacturing and warehouse building will provide approximately 73,445 square feet of manufacturing space and 73,445 square feet of warehousing.

D. Finding: That in the case of an amendment to the General Plan Land Use Map, the subject parcels (s) is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints), for the
requested land use designation(s) and the anticipated land use developments(s).

Findings of Fact:
The 6.4-acre portion of the 19.69-acre project area is of adequate size to accommodate the proposed light manufacturing and warehouse building, subject to compliance with the proposed Conditions of Approval. No natural constraints exist to the proposed development, and no significant adverse environmental impacts are anticipated with mitigation measures contained in the MND for the Project (Environmental Assessment 18-1501).

Lincoln Street provides suitable access and all necessary utilities are in place within adjacent public rights-of-way. As has been described in the preceding analysis, the site is surrounded by a railroad line and freeway to the north, light manufacturing, warehousing to the west, vacant parcels to the east and residential to the south across Lincoln Street. Public Facility-Railroad/Interstate adjoins the Project site on the north, with General Commercial land use designation and a single family residential land uses to the west and to the east and Very Low Density and Business Park across Lincoln Street to the south. A six-foot wrought iron perimeter fence buffers the existing facility, a proposed six-foot concrete, stucco covered wall is proposed on the north and east perimeter and an eight-foot concrete tilt up wall will buffer the proposed Project on the south boundary. The subject site is basically flat with and has been graded and developed in the past, thus no unique physical features or vegetation will be affected by the proposed Project.

SECTION 3: Findings for Recommendation of Approval of Zone Change 18-3501.
The Planning Commission of the City of Banning does hereby recommend that the City Council of the City of Banning find and determine that Zone Change 18-3501 should be approved because:

A. Finding: The proposed Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact:
The Project is consistent with the General Plan Land Use Element Policy which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands". The zoning classification of Business Park (BP) allows light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores.

B. Finding: The proposed Amendment is internally consistent with the Zoning Ordinance.
Findings of Fact:
The proposed Project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards. Pursuant to the Project's Conditions of Approval, the proposed Project will be constructed in conformance with City standards and specifications.

C. Finding: The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:
See findings of fact in Section 1 of this Resolution.

SECTION 4: Findings for Recommendation of Approval of Design Review 18-7001. The Planning Commission of the City of Banning does hereby recommend that the City Council of the City of Banning find and determine that Design Review 18-7001 should be approved because:

A. Finding: The proposed Project is consistent with the General Plan.

Findings of Fact:
The Project is consistent with the General Plan Land Use Element Policy, which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands". The land-use designation of Business Park (BP) allows the proposed light industrial manufacturing and office/warehouse buildings also, ancillary restaurants and retail uses, professional offices and club stores. The proposed light manufacturing and warehouse building will provide approximately 73,445 square feet of manufacturing space and 73,445 square feet of warehousing.

Further, the Project is consistent with General Plan Economic Development Policy, which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues". The proposed Project is estimated to generate approximately 50 jobs.

B. Finding: The proposed Project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact:
The proposed Project is consistent with the Zoning Ordinance and the development standards of the Business Park (BP) Zone, with imposition of Conditions of Approval, as detailed in the analysis contained in the Planning Commission staff report dated January 16, 2019.
C. Finding: The design and layout of the proposed Project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Findings of Fact:
The proposed Project has provided site and circulation layout design in such a way that the Project will not interfere with the use and enjoyment of existing and future development in the surrounding area. The proposed Project provides vehicular access from Lincoln Street as well as through the adjacent property to the west. A minimum six-foot solid perimeter wall will buffer residential development to the south of the proposed Project and design of lighting on-site is subject to compliance with the Municipal Code to prevent spillage onto adjacent areas.

D. Finding: The design of the proposed Project is compatible with the character of the surrounding neighborhood.

Findings of Fact:
The proposed light manufacturing and warehouse building use will not impair the integrity and character of the BP land use district in which it is to be located because it is surrounded by existing light manufacturing and warehousing developments and is on Lincoln Street, an established corridor to other business parks, industrial and warehouse businesses. The building architecture, site circulation and landscaping have been designed in a manner that the Project is compatible with the character of the surrounding neighborhood, with the imposition of Conditions of Approval and CEQA mitigation measures. Additionally, a minimum 6-foot solid wall, along with landscaping, will buffer the site from residential areas to the south.

PLANNING COMMISSION ACTION - Recommendation of Approval of Project with Conditions. Based on the foregoing, the Planning Commission of the City of Banning hereby recommends that the City Council of the City of Banning approve General Plan Amendment 18-2501, Zone Change 18-3501, and Design Review 18-7001 to permit the development of a 146,890 square foot light manufacturing and warehouse building on 6.4 acres of a 19.69 acre Project Site of real property located on the north side of Lincoln Street, at 1897 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street and 1589 West Lincoln Street and adjacent parcels to the east, between 22nd Street and 8th Street as shown in plans attached as Exhibit A (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045)

SECTION 5: ) and, subject to the recommended Conditions of Approval attached as Exhibit B. Further, the Planning Commission of the City of Banning hereby recommends to the City Council of the City of Banning that the Council’s approval of Design Review 18-7001 not be effective until the effective date of the City Council
resolution approving General Plan Amendment 18-2501 and the ordinance adopting Zone Change 18-3501, whichever date occurs later.

PASSED, APPROVED AND ADOPTED this 16th day of January 2019.

[Signature]
Eric Shaw, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

[Signature]
Serita R. Young, Assistant City Attorney
Richards, Watson & Gershon

ATTEST:

[Signature]
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 Planning Commission of the City of Banning, duly adopted the foregoing Resolution 2019-01, California, at a special meeting thereof held on the 16th day of January 2019, by the following vote, to wit:

AYES: Brosious, Krick, Price, Schuler, Shaw

NOES: None

ABSENT: None

ABSTAIN: None

Sandra Calderon, Recording Secretary
City of Banning, California
EXHIBIT B

* All fair share agreements, covenant agreements and agreements subject to recordation will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.

**Community Development Department**

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, 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, state Planning and Zoning Laws, 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, or other applicable City Ordinances, in effect at the time of building permit issuance.

3. Construction shall commence within two (2) years from the date of project approval, or the Design Review approval shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year the Design Review approval shall become null and void. Projects may be built in phases if pre-approved by the review authority. The Community Development Director may, upon a written application being filed 30 days prior to expiration and for good cause, grant a onetime extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Design Review approval complies with all current Ordinance provisions.

4. A copy of the signed Resolution of approval or Community Development Director's letter of approval and all conditions of approval and any applicable mitigation measures shall be reproduced in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for review and approval as required by the reviewing department.

5. Prior to any use of the project site, or business activity being commenced thereon, the applicant shall complete all Conditions of Approval to the satisfaction of the Community Development Director.

6. The site shall be developed and maintained in accordance with the plans stamped approved by the City, which include site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division; the conditions contained herein; and, Banning Municipal Code regulations.


8. **PRIOR TO ISSUANCE OF BUILDING PERMITS:** The developer shall complete and record a parcel merger for the seven parcels identified as Assessor's Parcel
9. **PRIOR TO ISSUANCE OF BUILDING PERMITS:** The developer shall complete and record a parcel merger for the two parcels that have an existing 610,890 square foot building across the parcel lines on the parcels identified as Assessor's Parcel Numbers APN: 538-220-002, 538-220-003, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045.

10. **PRIOR TO ISSUANCE OF BUILDING PERMITS** file and obtain the required demolition permits for the structure at 1661 W. Lincoln Street.

11. A six-(6) foot chain link fence or wall must be maintained around the perimeter of the site during all phases of construction.

12. Outdoor storage and screening shall comply with wall and fencing requirements of Section 17.12 of the BMC.

13. There shall be no storage of vehicles or equipment, or any other materials in the parking or landscaping areas of the project.

14. The applicant shall remove all graffiti immediately or within 24 hours of notice from the City.

15. The applicant shall keep the entire project site free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.

16. The site plan and project design shall comply with all Mitigation Measures contained in Mitigated Negative Declaration (MND) 18-1501 and the Mitigation Monitoring and Reporting Program (MMRP).

17. Separate submittals and permits are required for all accessory structures such as but not limited to, trash enclosures, patios, block walls and storage buildings

18. Prior to approval of Building Permits, the Landscape Plan shall be coordinated with the Lighting Plan to avoid conflicts and ensure proper placement of trees and lighting standards. Submit detailed landscape plans, prepared by a licensed landscape architect for compliance with Chapter 17.32, Section 17.12.120, and 17.28.060 and all pertinent landscape requirements. The plans shall be submitted to the Planning Division for approval prior to the issuance of building permits.

19. No spillage of light shall be allowed off-site on any property line.

20. All signage shall comply with Chapter 17.36 of the Banning Municipal Code. A coordinated comprehensive signage program shall be submitted for review and the approval of the Planning Department prior to issuance of Occupancy Permits.
21. Prior to the issuance of Building Permits, a comprehensive lighting plan, including specification details, shall be submitted to the Planning Department for review and approval prior to the issuance of Building Permits. The Lighting Plan shall comply with Title 24 of the California Uniform Building Code. Any existing lighting along Lincoln Street shall be plotted on the Lighting Plan, Site Plan and Landscape Plan. Any proposed wall lighting shall be schematically plotted on the Lighting Plan, Site Plan and on building facades.

22. The developer shall submit a construction access plan and schedule for the development of the project for Community Development Director and City Engineer approval; including, but not limited to, public notice requirements, special street posting, phone listing for community concerns, hours of construction activity, dust control measures, and security fencing.

23. Prior to certificate of occupancy, a comprehensive parking plan shall be submitted to Community Development identifying each use and related parking. Thereafter, at the time of submittal for building permits, each tenant shall submit a comprehensive parking plan identifying that the facility is in compliance with the parking code.

Public Works Department

A. General Requirements

24. A Public Works Permit shall be required prior to commencement of any work within the public right-of-way. The contractor working within the public right-of-way shall submit proof of a Class "A" State Contractor's License, City of Banning Business License, and Liability Insurance. Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced as determined by the City Engineer or his/her representative.

25. Prior to the issuance of any grading, construction, or public works permit by the City, the applicant shall obtain any necessary clearances and/or permits from the following agencies:

   a. Fire Marshal (access)

   b. Public Works Department (grading permits, street improvement permits)

   c. Riverside County Flood Control & Water Conservation District (storm drain)

   d. California Regional Water Quality Control Board Colorado River Basin (RWQCB)
e. South Coast Air Quality Management District (SCAQMD)

f. California Department of Transportation (CALTRANS)

The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.

26. The following improvement plans shall be prepared by a Civil Engineer licensed by the State of California and submitted to the Engineering Division for review and approval. A separate set of plans shall be prepared for each line item listed below. Unless otherwise authorized in writing by the City Engineer, the plans shall utilize the minimum scale specified and shall be drawn on 24" x 36" Mylar film. Plans may be prepared at a larger scale if additional detail or plan clarity is desired (Note: the applicant may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors):

a. Rough Grading Plans
   (All Conditions of Approval shall be reproduced on last sheet of set)
   1" = 40' horizontal

b. Haul Route Plans
   1" = 40' horizontal

c. Clearing Plans
   (Include construction fencing plan)
   1" = 50' horizontal

d. Erosion Control & SWPPP, WQMP
   (Note: a, b, c & d shall be reviewed and approved concurrently)
   1" = 40' Horizontal

e. Storm Drain Plans
   1" = 40' Horizontal

f. Street Improvement Plans
   1" = 40' Horizontal
   1" = 40' Vertical

g. Signing & Striping Plans
   1" = 40' Horizontal

h. Precise Grading Plans
   1" = 40' Horizontal

i. Landscaping Plans
   1" = 20' Horizontal

j. Water & Sewer Improvement Plans
   1" = 40' Horizontal
   1" = 4' Vertical
Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

All off-site plan and profile, street improvement plans and signing & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.

A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

27. Upon completion of construction, the Developer shall furnish the City with reproducible record drawings on Mylar film of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD files submitted to the City, revised to reflect the "As-Built" conditions.

B. Street Improvements/Rights of Way

28. The Applicant shall dedicate to the City of Banning the additional right-of-way of 25-feet fronting Lincoln Street (50 feet from centerline of the street) for public street and utilities purposes. Legal descriptions and plats of street dedication shall be provided to the Engineering Division for review and approval before acceptance by the City Council and recorded by the County of Riverside.

29. The City and Developer are to enter into a Development Agreement (DA) to guarantee the construction of the public improvements as listed in the Conditions of Approval and as shown on the approved plans. The applicant shall work with the City Attorney's Office to execute the DA and pay all related legal processing fees.

30. All street improvement designs shall provide pavement and lane transitions per City of Banning and CalTrans standards for transition to existing street sections.

31. Construct half-width (50-feet from centerline) street improvements fronting Lincoln Street including street lighting, curb and gutter, driveway approaches, sidewalk, parkway, asphalt concrete paving, traffic signs and striping, and any transitions. Street lights shall be installed offset of the existing street lights. Applicant's geotechnical engineer shall provide the design of the pavement section based upon the CalTrans method.

32. Construct commercial driveway approach or approaches fronting Lincoln Street in accordance with the City of Banning Standard No. C-209 or C210.
33. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.

34. The applicant shall plant and perpetually maintain trees, shrubs, and ground cover placed in the parkway, slopes adjacent to public right-of-ways constructed in connection with the project. This includes providing irrigation and the clearing of debris and weed removal.

35. All required public improvements for the project shall be completed, tested, and approved by the Engineering Division prior to issuance of any Certificate of Occupancy.

C. Grading and Drainage

36. Submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval. The study and analysis shall be prepared by a civil engineer licensed by the State of California. Drainage design shall be in accordance with Banning Master Drainage Plan adopted by Riverside County Flood Control and Water Conservation District (RCFCD), RCFCD Hydrology Manual, and standard plans and specifications. The 10-year storm flow shall be contained within the street curbs, and the 100-year storm shall be contained within the street right-of-way; when this criteria is exceeded, additional drainage facilities shall be designed and constructed.

37. At a minimum, all development will make provisions to store runoff from rainfall events up to and including the one-hundred three-hour during event. Post-development peak urban runoff discharge rates shall not exceed pre-development peak urban runoff discharge rates.

38. If the site is located in a Flood Area as identified in Flood Insurance Rate Map dated August 28, 2008 the developer is responsible for providing a certification by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

39. The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of concentrated or diverted storm flows. The project shall accept and convey storm flows from the adjacent property to the north, east and west.

40. The applicant shall comply with Chapter 13.24 “Stormwater Management Systems” of the Banning Municipal Code (BMC) and Title 18 “Grading, Erosion
and Sediment Control" of the California Building Code related to excavation and grading; and, the State Water Resources Control Board's orders, rules and regulations.

41. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.

42. The applicant's SWPPP shall be reviewed and approved by the City Engineer prior to any permit issuance.

43. The applicant shall ensure that the required SWPPP is available for inspection at the project site at all times through and including acceptance of all improvements by the City.

44. The applicant's SWPPP shall include provisions for all of the following Best Management Practices ("BMPs"):
   a. Temporary Soil Stabilization (erosion control).
   b. Temporary Sediment Control.
   c. Wind Erosion Control.
   d. Tracking Control.
   e. Non-Storm Water Management.
   f. Waste Management and Materials Pollution Control.

45. All erosion and sediment control BMPs proposed by the applicant shall be designed using the CASQA BMP handbook and approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project.

46. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.

47. Prior to issuance of any grading or building permit, a Project-Specific Water Quality Management Plan (WQMP) shall be reviewed and approved in accordance with California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2013-0011.
48. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California.

49. Prior to the issuance of any building permit(s), a precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any grading activity.

50. The following notation shall be placed on the grading plan: "No more than three days prior to removing trees, shrubs or tall herbaceous vegetation during the breeding season for migratory birds (February 15 to August 31) a qualified biologist shall conduct a nesting bird survey."

51. Prior to the issuance of a building permit, the applicant shall provide a lot pad certification stamped and signed by a qualified civil engineer or land surveyor. Pad certification shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. Such pad certification shall also list the relative compaction of the pad soil.

D. Traffic

52. Prior to the issuance of a grading permit or building permit, the applicant shall submit and obtain approval in writing from the Fire Marshal for the plans for all public or private access drives or streets. The plans shall include plan and sectional views and indicate the grade and width of the access road measured flow-line to flow-line. When a dead-end access exceeds 150 feet or when otherwise required, a clearly marked fire apparatus access turnaround must be provided and approved by the Fire Marshal. Applicable covenant, conditions or restrictions or other approved documents shall contain provisions which prohibit obstructions such as speed bumps/humps, control gates or other modifications within said easement or access road unless prior approval of the Fire Marshal is granted.

53. Driveway grades shall not exceed eight percent unless approved by the City Engineer.

54. Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on the approved plans.

55. Prior to the issuance of a grading permit or building permit, the applicant shall conduct a Traffic Impact Analysis at the intersection of Lincoln Street/8th Street and Lincoln Street and 22nd Street and submit the report to the Engineering Division for review and approval. All mitigation identified in the Traffic Impact
Analysis shall be implemented by the applicant to the satisfaction of the City Engineer.

56. Prior to the issuance of any certificate of occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street/access driveway as approved by the Fire Marshall, and must be maintained in good condition by the property owner until the street is accepted for maintenance.

E. Water

57. Construct all water improvements including connection to the existing City water system. All water mains to be constructed within the Public right-of-way shall be Ductile Iron Pipe and shall be a minimum of 8". Final size shall be approved by the City Engineer.

58. A backflow device must be installed on all commercial buildings and at each irrigation water connection. The backflow device must be in compliance with the State Department of Health Regulations.

59. Fire Services will require a Double Detector Check or RPP Device.

60. Pay all applicable water connection and frontage fees per Chapter 13.08 “Water, Sewer and Electricity Rates” of the Banning Municipal Code prior to the issuance of a building permit.

61. Submit water plans along with water demand calculations, based on fixture counts for indoor domestic use for each unit (i.e., per building, tenant, etc.) and computed separately for outdoor irrigation. Separate irrigation meter(s) with RP backflow device will be required. Each potential building/unit shall have a dedicated domestic water meter with RP backflow protection.

62. The private fire protection system shall be designed to meet Fire Department requirements, and include an RPDA backflow protection device approved by USC.

F. Sewer

63. Design and construct sewer line and connect to existing City sewer system. Submit any sewer improvement plans to Engineering Division for review and approval. If the sewer line is not located on a public street, an easement over the sewer line, minimum 15 feet in width, shall be granted to the City of Banning for maintenance purposes.

64. All sewer lines to be constructed within the Public right-of-way shall be extra strength Vitrified Clay Pipe. All sewer laterals shall be a minimum of 4" and all
sewer mains shall be a minimum of 8”. Final sizes shall be approved by the City Engineer.

65. A sewer check valve shall be provided for each building with a finish pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.
66. Pay all applicable sewer connection and frontage fees per Chapter 13.08 “Water, Sewer and Electricity Rates” of the Banning Municipal Code prior to the issuance of a building permit.

67. Some industrial users may require a discharge permit, depending on the nature of the anticipated quality and quantity of the discharge. Before connecting to the City Sewer System, applicant shall provide detailed information on the anticipated discharge flows, patterns and characteristics.

68. Submit sewer plans showing one or multiple sewer lateral connections to the existing 8” sewer main on Lincoln

G. Trash/Recycling

69. The developer shall participate in the City’s recycling program by providing two trash receptacles, one for regular trash and one for recycling, within the covered trash enclosure. The covered trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.

70. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City’s franchised solid waste hauler, Waste Management of the Inland Valley at 1-800-423-9986, for disposal of construction debris.

H. Fees

71. Plan check fees for professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the fee schedule in effect at the time of submittal.

72. Public Works Inspection fees shall be paid prior to issuance of any permits in accordance with the fee schedule in effect at time of time of scheduling.

73. Water and sewer connection fees including frontage fees and water meter installation charges shall be paid at the time of building permit issuance in accordance with the fee schedule in effect at that time.
74. A plan storage fee shall be paid for any engineering plans that may be required prior to issuance of certificate of occupancy in accordance with the fee schedule in effect at the time the fee is paid.

75. Prior to issuance of grading permits, the applicant shall submit to the City Engineer a Notice of Intent (NOI) to comply with obtaining coverage under the National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit from the State Water Resources Control Board. Evidence that this has been obtained (i.e., a copy of the Waste Dischargers Identification Number) shall be submitted to the City Engineer for coverage under the NPDES General Construction Permit prior to initiation of construction activities.

I. Lot Merger

76. Applicant shall submit copy of Grant Deed of the proposed lot mergers to the City.

77. Applicant shall submit legal descriptions and plats of the proposed lot merger to the City for review and approval.

78. All legal descriptions and plats must be prepared, stamped and signed by a Registered Land Surveyor or Civil Engineer in the State of California on letter size paper.

79. Applicant shall pay all associated engineering fees to the City at the time of submittal.

**Electric Utility Department**

80. Any electric utility pole(s) that need to be relocated for this project will be done at developer’s expense.

81. Submit the outlined information in a timely fashion is critical for design, planning and ordering of material for this project.

82. Submitting detailed plans indicating lot lines, streets, easements, building layout, anticipated loading information, etc. These plans are required in electronic format. We currently use AutoCad2016. Plans should consist of a plot plan, site plan, one-line diagram of proposed electrical main service panel and a sheet showing load calculations by an electrical engineer. Additional sheets may be required upon request.

83. Paying required fees - electrical permit, plan check fee, inspection fees, meter fee and cost of electrical apparatus for completing the underground line extension.

84. Granting easement for electric facilities installation / maintenance, etc.
85. Installation of all electric utility conduits and substructures.

86. The City of Banning Electric Utility shall be responsible for:
   
   a. Reviewing plans submitted by customer.

   b. Design an electrical utility plan for the installation of substructures and conduit by developer.

   c. Providing a cost estimate for installing an underground electrical system for this project.

   d. Inspecting all trenches prior to backfilling. 24-hour prior notice is required before inspection.

   e. Install electrical apparatus including primary conductors, terminations, metering, and transformer to provide electrical service for your project.

Fire Department

Fire Access and Fire Water to comply with the 2016 editions of California Fire code and California Building Code, including but not limited to the following:

87. For commercial areas, the required fire flow shall be available from Super hydrant(s) (6" x 4" x 21/2" x 21/2") spaced not more than 350 apart and shall be capable of delivering a fire flow 8000 GPM per minute for 4 hours duration at 20 psi residual operating pressure, which must be available before any combustible material is placed on the construction site. With fully fire sprinklered building, the 50% reduction credit applies, therefore 4,000 gallons at a 2 hr. flow rate is the fire flow required utilizing the credit.

88. Prior to building plan approval and construction, applicant/developer shall furnish two copies of the water system fire hydrant plans to Fire Department for review and approval. Plans shall be signed by a registered civil engineer, and shall confirm hydrant type, location, spacing, and minimum fire flow. Once plans are signed and approved by the local water authority, the originals shall be presented to the Fire Department for review and approval.

89. Install a complete commercial fire sprinkler system. Fire sprinkler system(s) with pipe sizes in excess of 4" in diameter will require the project Structural Engineer to certify with a "wet signature", that the structural system is designed to support the seismic and gravity loads to support the additional weight of the sprinkler system. All fire sprinkler risers shall be protected from any physical damage.
90. The PIV and FDC shall be located to the front of building within 50 feet of approved roadway and within 200 feet of an approved hydrant. Sprinkler riser room must have indicating exterior and/or interior door signs. A C-16 licensed contractor must submit plans, along with current permit fees, to the Fire Department for review and approval prior to installation.

91. Install an alarm monitoring system for fire sprinkler system(s) with 20 or more heads, along with current permit fees, to the Fire Department for review and approval prior to installation.

92. Gate(s) shall be automatic or manual operated. Install Knox key operated switches, with dust cover, mounted per recommended standard of the Knox Company. Building plans shall include mounting location/position and operating standards for Fire Department approval.

93. Fire Apparatus access road and driveways shall be in compliance with the Riverside County Fire Department Standard number 06-05 (located at www.rvcfire.org). Access lanes will not have an up, or downgrade of more than 15%. Access roads shall have an unobstructed vertical clearance not less than 13 feet and 6 inches. Access lanes will be designed to withstand the weight of 80 thousand pounds over 2 axles. Access will have a turning radius capable of accommodating fire apparatus. Access lane shall be constructed with a surface so as to provide all weather driving capabilities. Width must be a minimum 20’. 24’ preferred.

94. Commercial address must be a minimum 12” tall in contrasting color visible from the street address side of the building. Illuminated internally or externally.

95. Applicant/Developer shall mount blue dot retro-reflectors pavement markers on private streets, public streets and driveways to indicated location of the fire hydrant. It should be 8 inches from centerline to the side that the fire hydrant is on, to identify fire hydrant locations.

96. An approved Fire Department access key lock box (Minimum Knox Box 3200 series model) shall be installed next to the approved Fire Department access door to the building. If the buildings are protected with an alarm system, the lock box shall be required to have tampered monitoring. Required order forms and installation standards may be obtained at the Fire Department.

97. On the North side of the building near railroad property, if the project will only have 20’ of clearance/distance to the property line a minimum 3 hour fire resistive rating will be required on the exterior wall.
98. Maximum allowable area for F2 occupancy is 72,000 sq. ft. A minimum 3 hour area separation of fire resistive construction will be needed to achieve the increase of allowable area.

**Building and Safety Department**

The following conditions are required to be met at time of plan check submittal:

99. The Site shall be developed in compliance with all current model codes. All plans shall be designed in compliance with the latest editions of the California Building Codes as adopted by the City of Banning.

100. Site development and grading shall be designed to provide access to all entrances and exterior ground floor exits and access to normal paths of travel, and where necessary to provide access. Paths of travel shall incorporate (but not limited to) exterior stairs, landings, walks and sidewalks, pedestrian ramps, curb ramps, warning curbs, detectable warnings, signage, gates, lifts and walking surface material. The accessible route(s) of travel shall be the most practical direct route between accessible building entrances, site facilities, accessible parking, public sidewalks, and the accessible entrance(s) to the site. California Building Code (CBC) 11A and 11B.

   a. City of Banning enforces the State of California provisions of the California Building Code disabled access requirements. The Federal ADA standards differ in some cases from the California State requirements. It is the building owner’s responsibility to be aware of those differences and comply accordingly.

   b. Disabled access parking shall be located on the shortest accessible route. Relocate parking spaces accordingly.

101. Commercial buildings on the site shall be accessible per California Building Code (CBC) 11B.

102. Site Facilities such as parking (open and covered), recreation facilities, and trash dumpsters, shall be accessible per California Building Code (CBC) 11A, 11B and 31B.

103. Separate submittals and permits are required for all accessory structures such as but not limited to, trash enclosures, patios, block walls and storage buildings.

104. Pursuant to California Business and Professions Code Section 6737, this project is required to be designed by a California licensed architect or engineer. Based on change of use and potential exiting and fire life safety improvements.
Exhibit B
Conditions of Approval
GPA 18-2501, ZC 18-3501, DR 18-7001
Page 16 of 16

***END***
ATTACHMENT 5

Responses to Public Comments Received
RESPONSES TO COMMENTS
MITIGATED NEGATIVE DECLARATION
LAWRENCE EQUIPMENT EXPANSION
General Plan Amendment GPA 18-2501, Zone Change 18-3501 and Design Review

Pursuant to CEQA Section 15074, the Lead Agency must consider the MND for adoption together with any comments received during the public review process. This section provides all written comments received on the Draft MND and the City of Banning's response to each comment.

Comment letters and specific comments are given numbers for reference purposes. Introductory comments in the letters that does not include a substantive environmental comment are noted as "Intro."

Four comment letters were received during the public review period, January 11, 2019 through February 17, 2019. These letters were from:

A. Federal Emergency Management Agency (FEMA), dated January 16, 2019;
B. Mr. Nick Parra, dated January 21, 2019;
C. South Coast Air Quality Management District, dated January 24, 2019; and
D. Lozeau Drury on behalf of Laborers International Union North America, Local Union No. 1184 (LIUNA), dated January 24, 2019) which are attached. No other comments either from public agencies, organizations, or individuals were received.
January 16, 2019

Sonia Pierce, Senior Planner
City of Banning
Community Development Department
99 E. Ramsey Street
Banning, California 92220

Dear Ms. Pierce:

This is in response to your request for comments regarding a Notice of Availability of and Intent to Adopt Mitigated Declaration, City of Banning.

Please review the current effective Flood Insurance Rate Maps (FIRMs) for the County of Riverside (Community Number 060245), Maps revised March 6, 2018 and City of Banning (Community Number 060246), Maps revised August 28, 2008. Please note that the above referred communities are participants in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.

- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any development must not increase base flood elevation levels. The term development means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials. A hydrologic and hydraulic analysis must be performed prior to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.
All buildings constructed within a coastal high hazard area, (any of the "V" Flood Zones as delineated on the FIRM), must be elevated on pilings and columns, so that the lowest horizontal structural member, (excluding the pilings and columns), is elevated to or above the base flood elevation level. In addition, the posts and pilings foundation and the structure attached thereto, is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.

Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at http://www.fema.gov/business/nfip/forms.shtml.

Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community’s floodplain manager for more information on local floodplain management building requirements. The Banning floodplain manager can be reached by calling Andy Takata, City Manager, at (951) 922-3104. The Riverside County floodplain manager can be reached by calling Jason Uhley, General Manager and Chief Engineer, at (951) 955-1265.

If you have any questions or concerns, please do not hesitate to call me at (510) 627-7186.

Sincerely,

Gregor Blackburn, CFM, Branch Chief
Floodplain Management and Insurance Branch

cc:
Andy Takata, City Manager, City of Banning
Jason Uhley, General Manager and Chief Engineer, Riverside County
Garret Tam Sing, State of California, Department of Water Resources, Southern Region Office
Gregor Blackburn, CFM, Branch Chief, Floodplain Management and Insurance Branch
Alessandro Armaglio, Environmental Officer, DHS/FEMA Region IX
Response to Comments Letter A – Federal Emergency Management Agency (FEMA)
January 16, 2019

Response to Comment A-1

The City appreciates the comments from FEMA regarding this Project. The comment notes the most current date of the countywide FEMA Flood Insurance Rate Map (FIRM) is March 6, 2018 and the FIRM for City of Banning is August 28, 2008. The FEMA FIRM maps were accessed for to determine if there were any changes in the maps since the most recent map revisions. The maps are the same, therefore the answer in Section IX Hydrology and Water Quality (b) of the Initial Study confirming the project does not propose any structures to be within the 100-year flood hazard zone is still accurate and applicable.

The comment also notes that the City of Banning, Riverside County, California is a participant in the National Flood Insurance Program (NFIP) and that the minimum basic NFIP floodplain management building requirements described in Vol. 44 Code of Federal Regulations, Sections 59 through 65 are applicable to the City. No new environmental issues have been raised by this comment.

Response to Comment A-2

This comment provides FEMA's floodplain management building requirements. The Initial Study discusses the flood impacts of the Project in Section IX Hydrology and Water Quality; it notes that the Project will not be placing any development within the 100-year flood hazard zone as delineated on the FEMA Flood Insurance Rate Maps effective August 28, 2008. Therefore, none of the measures offered in this comment are relevant to the Project. No new environmental issues have been raised by this comment.

Response to Comment A-3

The City of Banning appreciates FEMA pointing out that it can contact FEMA's local floodplain manager for more information. The Project's new structure will be located outside the 100 year floodplain as outlined in the MND. This comment not does raise any new environmental issues.
January 21, 2019

To: Maryanne Marks (Community Dev. Director) & Daniela Andrade (City Council Member)

From: Nick Parra

Re: Lawrence Equipment (a.k.a. LE)

Topic: Items to be considered before City Council Approves LE Warehouse Project

1. **Environmental Impact Plan:** Since the Intended Use of the Warehouse will be for "Light Manufacturing" & "Warehouse Building" did the Commission review and approve an acceptable EPA regulated toxic waste management plan that upholds either the strictest or at least the latest up-to-code standards to manage the metal manufacturing byproduct/waste materials. It would also be expected that the new LE Warehouse, will be a state-of-the-art facility that will manage all manufacturing/building processes which will include metal cutting, welding, sanding and possible molding/pouring. It is also expected, LE will not use other buildings it owns/possess in Banning for manufacturing use which are not equipped to manage solid and airborne waste. Since some environmental codes cannot always be supervised and legally enforced by the city and county officials, did the Commission include Contract Language for LE to adhere to its continual EPA Commitments maintaining a safe and clean operating manufacturing facility?

2. Since the City of Banning has offered LE a discounted rate for electricity, what will be the estimated **Annual Cost of Electricity**? Will the electricity be strictly be for the new warehouse operations and not for other nearby properties LE may own or operate? In addition, has LE submitted a **Renewable Energy Plan**? Does it include solar panels to offset their cost of energy consumption and/or contribute a return to the City of Banning's electrical grid? Note: Current Landscape includes trees on sides of building
for employee parking. Alternate Proposal: Instead of inefficient trees, which require water and care, Parking Lot Solar Panels could be a better alternative.

3. Has LE committed to a Community Partnership Plan which could include an Internship Program, Youth Employment Training, Community Outreach, and Local Employment Development programs, and Innovation Services. In addition, Innovation Services, along with goals, will help LE maintain an edge in the latest technology and best practices for producing food equipment in order remain a state-of-the-art facility for the City of Banning and preserve a long standing and viable company in the future.

4. Architecture Design (to Match City of Banning Theme for Beautification & Branding Goals): Note: the current LE Blue Print has omitted Front/Back (north/south) and Side (west/east) Labels making it difficult to discern which side is which. Please have LE add/clarify. In addition, has LE offered to add items to the initial Blue Print which enhance the look of the building to reflect Banning’s historic character such as Stagecoach or Era Theme which have left their marks in the city. It is also important to enhance the Back Exterior Wall for visibility from the Freeway. These could include Farm, Colonial Revival, Spanish Colonial, Native American, Santa Fe designs Adobe, American, Art Deco, Craftsman, and Bungalow designs. Without completely altering the original Blue Print and adding extensive costs, it would be acceptable if LE could incorporate added designs through use of Wood/Steel Pillars, Exterior Molding Facades, Rock Covered Exterior Walls (partial or full), enhanced Signage, and Mural Art.
Sample Images Below:

Stagecoach Park
OLATHE, KS

Stagecoach Park
OLATHE, KS

5. Landscape Design/Green Space Design (to Match City Theme): Note: LE current Blueprint omits landscaping in the back of the warehouse. Has LE offered to create a revised landscaping plan to beautify the Back view?
Note: Though LE’s current Landscape Blueprint does include a proposed Plant Palette Key, it omits palette ID markers making it difficult to discern what trees/plants will be where. LE should add/clarify. The current Blueprint does not propose any landscaping in the back of the property which is visible to 10 freeway commuters. Including some plants in the Back view of the property will enhance the city’s beautification and branding goals. This in mind, it is important the back view, which is visible from the 10 freeway and railway, reflects the city’s character, so the building will stand apart from other typical warehouses. It is also extremely important that building’s green space character be reflected from the Front view for local residents who reside nearby and for guests visiting the facility to offer a pleasant view. Such optional adds could include Wood Decorative Fencing, Train Tie Rod Log Stacks, Stone Wall Dry Stacks around Tree/Plants, Large Ceramic/Concrete Planters, Water Fountains, and Art Sculptures.

Sample Images Below:
6. Has LW offered a Water Conservation Plan that conserves water? The current Landscape Blue Print decentralizes trees and plants surrounding the
building which is a costly watering method. Smarter water conservation landscape design includes ways to centralize trees and plants to optimize watering costs thereby saving money to invest other areas of design. Once again, instead of wasteful tree planting on the sides of the building, Parking Lot Solar Panels could be a more viable option to both provide energy for the building and shade for employee parking. In addition, has LE included Rainwater Harvesting Plan to offset water use? Rainwater harvesting drainage collection containers could help save cost to maintaining landscaping and warehouse cleaning operations.

Sample Images Below:

7. Color Scheme Proposal (to match City Theme): Color palette design is the most affordable way to enhance the look of a building. Instead of applying typical grey/white color schemes to the new building, which LE currently has proposed, it is highly recommend LE offer a revised building paint plan that reflects warmer earth tones to both beautify the space and capture the character of the city of Banning? Color Palettes can include Southwest, Heritage, Bungalow, Adobe, and Craftsman colors.

Samples Images Below:
Thank you! I look forward to your feedback.

Nick Parra

909-455-8293

n.parra91711@gmail.com
Response to Comments Letter B – Mr. Nick Parra, dated January 21, 2019

Response to Comment B-1
The City appreciates the comments from Mr. Nick Parra regarding this Project. The project is an expansion of an existing industrial/manufacturing warehouse business. In past years the manufacturing of windows occupied the site. There are no restrictions on the business to prevent it from continuing its operation or sharing buildings. The use is allowable on the site.

The California Environmental Protection Agency designated “the Branch” as the Certified Unified Program Agency (CUPA) for Riverside County. The role of the CUPA is to assure consolidation, consistency and coordination of the hazardous materials programs within the County. The Riverside County Department of Environmental Health Hazardous Materials Branch is responsible for overseeing the six hazardous materials programs in the County. The Branch is responsible for inspecting facilities that handle hazardous materials, generate hazardous waste, treat hazardous waste, own/operate underground storage tanks, own/operate aboveground petroleum storage tanks, or handle other materials subject to the California Accidental Release Program. In addition, the Branch maintains an emergency response team that responds to hazardous materials and other environmental health emergencies 24 hours a day, 7 days a week.

In Section III. Air Quality Analysis of the Initial Study, the Proposed Project’s construction and operation emissions have been quantified and compared to SCAQMD’s regional and localized air quality CEQA significance thresholds. It has been found that the Proposed Project’s air quality impacts from construction and operational would be less than significant. No environmental issues are raised in this comment.

Response to Comment B-2
The comment is of a general nature regarding the Project. While Mr. Parra is questioning the electricity consumption and use of solar power, the City of Banning Electric Utility Department has conditioned the project (COA 80-86) to submit outlined information in a timely fashion for the design, planning and ordering of materials. The Utility Department will determine through design the appropriate electrical system for the Project. At this time all commercial proposals for solar project must be cleared through the City of Banning Electrical Utilities Department. Single Family Residential units have been the most successful. No new environmental issues have been raised by this comment.

Response to Comment B-3
The comment is of a general nature regarding design aspect of the Project. On January 16, 2019, Design Review 18-7001 for the Project was reviewed by the Planning Commission and a recommendation to the City Council to approve the design was passed by a 5-0-0 vote with Planning Commission Resolution 2019-01. No new environmental issues have been raised by this comment.
South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

SENT VIA E-MAIL AND USPS:
spierce@ci.banning.ca.us
Sonia Pierce, Senior Planner
City of Banning, Community Development Department
99 E. Ramsey Street
Banning, CA 92220

January 24, 2019

Mitigated Negative Declaration (ND) for the Proposed
General Plan Amendment GPA 18-2501, Zone Change 18-3501, and Design Review 18-7001

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final ND.

SCAQMD Staff’s Summary of Project Description
The Lead Agency proposes to develop a 146,890-square-foot warehouse on 19.69 acres (Proposed Project). Based on a review of the Project Location in the Notice of Availability and Intent to Adopt a Mitigated Negative Declaration (Notice) for the Proposed Project, SCAQMD staff found that residential uses are located within 1,000 feet of the Proposed Project.

SCAQMD Staff’s Comments
As a public commenting agency, SCAQMD staff reviews and may comment on the CEQA documents. SCAQMD staff’s goal is to ensure that project emissions and health risk impacts are adequately and sufficiently evaluated, disclosed, and mitigated to the maximum extent feasible. According to the Notice, a copy of the MND for the Proposed Project is available at the City Community Development Department website at http://ci.banning.ca.us/DocumentCenter/View/6124/Lawrence-Equipment_Studies. However, after examining the document that was posted at this web address, SCAQMD staff found that the document was a Traffic Impact Analysis Report, dated August 6, 2018. It was not a MND required under CEQA Guidelines Section 15070 to 15075. As such, SCAQMD staff was not able to review the MND and the Air Quality Impact Analysis, including the Health Risks Assessment at this time. The MND should include sufficient information as substantial evidence to support a fair argument that the Proposed Project would not have any adverse effects on air quality impacts and health risk impacts. Since the document that was made available for public review from January 11, 2019 to January 31, 2019 represented only a portion of the environmental analysis for the Proposed Project, and to provide meaningful comments on the air quality analysis for the Proposed Project that will enable informed decision-making and public participation, SCAQMD staff recommends that the Lead Agency recirculate the MND in its entirety for public review.

Conclusion
Pursuant to CEQA Guidelines Section 15074, prior to approving the Proposed Project, the Lead Agency shall consider the MND for adoption together with any comments received during the public review process. Please provide the SCAQMD with written responses to all comments contained herein prior to the certification of the Final MND. When responding to issues raised in the comments, response should provide sufficient details giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful or useful to decision makers and the public who are interested in the Proposed Project.
SCAQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact me at lsun@aqmd.gov if you have any questions.

Sincerely,

Lijin Sun
Lijin Sun, J.D.
Program Supervisor, CEQA IGR
Planning, Rule Development & Area Sources

LS
RVC190115-01
Control Number
Response to Comments - Letter C

South Coast Air Quality Management Agency (SCAQMD), Linjin Sun, Program Supervisor, CEQA/IGR, Planning, Rule Development and Area Sources, January 24, 2019.

Response C-1

The City appreciates the comments from SCAQMD regarding this Project. This comment is in regards to the Project description and location. This is an introductory comment that correctly summarizes the description of the proposed Project. As SCAQMD notes, the proposed project is within 1000 feet of residential uses. Additional wall screening is proposed and noise mitigations (MM N-1 – MMN-6) have been incorporated to protect the residences from construction noise. Also, in Section III. Air Quality Analysis of the Initial Study, the Proposed Project’s construction and operation emissions have been quantified and compared to SCAQMD’s regional and localized air quality CEQA significance thresholds. It has been found that the Proposed Project’s air quality impacts from construction and operational would be less than significant. No environmental issues are raised in this comment.

Response C-2

As SCAQMD notes, SCAQMD staff’s goal is to ensure that project emissions and health risk impacts are adequately and sufficiently evaluated, disclosed, and mitigated to the maximum extent feasible. During the beginning of specified review period January 11, 2019 to January 31, 2019, SCAQMD was not able to review the MND document in its entirety and the Air Quality Impact Analysis. On January 24, 2019, the requested documents were made available to SCAQMD, the review period was extended to February 17, 2019 and the link to documents were refreshed and reposted.

Prior to that date January 24, 2019, FEMA had responded to the document and a local resident had responded. Only one other response to the extended public review was received from Lozeau Drury, LLP and they were assured that the comment period was still open and they can send comments. The Public Review Period closed on February 17, 2019 and no further comments have been received.

It is our goal to allow meaningful comments to the project. There is a Mitigation, Monitoring and Reporting Program for the project that includes 6 Noise Mitigations.

Response C-3

The comment is in regards to CEQA Guidelines for correspondence. The City will send responses to these comments to the SCAQMD pursuant to CEQA Guidelines Section 15088(b) and Public Resources Code Section 21092.5. The City appreciates SCAQMD’s review of the MND and participation in the CEQA process. No new environmental issues are raised in this comment.
III. AIR QUALITY
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

<table>
<thead>
<tr>
<th>a) Conflict with or obstruct implementation of the applicable air quality plan?</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) Expose sensitive receptors to substantial pollutant concentrations?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e) Create objectionable odors affecting a substantial number of people?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

a-c

Construction Phase
The Sample Construction Scenarios for Localized Significant Thresholds (LST) on the South Coast AQMD website was utilized on September 12, 2017 for Appendix B, a Five Acre Site Example. The lbs/day of all pollutants is well below the LST. Chart III-1 is the summary from Caleemod for the construction phase. The prevailing wind is from the southeast to the northwest. The project will not conflict with nor obstruct implementation of the applicable air quality plan. The impact on air quality is less than significant during the construction.

<table>
<thead>
<tr>
<th>Chart III-1</th>
<th>Peak Daily Construction Emissions (lb/day)</th>
<th>MT/yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ROG</td>
<td>NOX</td>
</tr>
<tr>
<td>Peak Daily Total</td>
<td>3.9112</td>
<td>34.5782</td>
</tr>
<tr>
<td>Current Emissions</td>
<td>4.8923</td>
<td>6.8678</td>
</tr>
<tr>
<td>Total</td>
<td>8.8035</td>
<td>41.446</td>
</tr>
<tr>
<td>SCAQMD Threshold</td>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>Exceed Significance</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>

1 See appendix B for LST worksheets obtained from SC AQMD at http://www.scqmd.gov/home/legislat/empair-quality-analysis-handbook-localized-significance-thresholds
2 See appendix B for construction summary sheet from Caleemod 2016
3 See appendix C for wind rose obtained from Iowa State University Web site at http://www.net.agron.iastate.edu/sites/tep.php?station=BUO&network=CA&X=805

512
III. AIR QUALITY (continued)

a-c (continued)

Operating Phase

One phase of the proposed project involves a zoning change of existing industrial buildings. There is no impact from this phase. The second phase of the proposed project involves the construction of an additional industrial building of 146,890 sq.ft. The emissions from the current industrial operations were compared to the future operational emissions with the new building included and found to be less than significant.¹ (see chart III-2 and III-3) The project will not conflict with an air quality plan; will not violate any air quality standard; and will not produce a net increase of any criteria pollutant.

<table>
<thead>
<tr>
<th>Chart III-2</th>
<th>Current Peak Daily Operational Emissions (lb/day)</th>
<th>MT/yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ROG</td>
<td>NOX</td>
</tr>
<tr>
<td>Peak Daily Total</td>
<td>4.8923</td>
<td>6.8678</td>
</tr>
<tr>
<td>SCAQMD Threshold</td>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>Exceed Significance</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chart III-3</th>
<th>Future Peak Daily Operational Emissions (lb/day)</th>
<th>MT/yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ROG</td>
<td>NOX</td>
</tr>
<tr>
<td>Peak Daily Total</td>
<td>9.2179</td>
<td>13.9109</td>
</tr>
<tr>
<td>SCAQMD Threshold</td>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>Exceed Significance</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>

d

See a-c above. The closest sensitive receptor is 1575 feet north with the SFPP Railway and Interstate 10 between the project site and the sensitive receptors. The prevailing wind is from the northwest to the southeast.² The impact of substantial pollutant concentrations to sensitive receptors is less than significant.

e

The proposed project is in CalEnviroScreen census tract 6065044300. The prevailing wind, from southwest to northeast will effect census tract 6065044101 and this census tract has a population of 2973. The majority of the zoning in this tract is Highway Commercial. The number of homes within 1/4 mile radius of the proposed project site is 66. The lbs/day of all pollutants is well below the LST.³ The facility does not generate odors, and does not use chemicals that generate odors. The long-term operations of the proposed project will keep any industrial activity of the warehouse indoors. The impact of objectionable odors to a substantial number of people is less than significant.

¹ see appendix D for Current Operational summary sheets and appendix E for future operational summary sheets from CalEnviroScreen
² see appendix C for wind map obtained from Iowa State University Web site at http://www.cert.ames ia. iastate.edu/\~cert/\~winds/\~winds.html and http://www.cert.ames ia. iastate.edu/\~cert/\~winds/\~winds.html
³ see appendix A for LST worksheet obtained from SCAQMD at http://www.scaqmd.gov/home/legislations/ocs/air-quality-analysis-handbook/localized-significance-determination
III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

d) Expose sensitive receptors to substantial pollutant concentrations?

e) Create objectionable odors affecting a substantial number of people?

a-c

Construction Phase

The most recent version of the CalEEMod model (Version 2016.3.2) was used to calculate the construction emissions for the proposed project, as summarized below. The emissions rates shown are from the CalEEMod output tables.1 As shown in table B below, construction equipment/vehicle emissions of ROG and NOX would not exceed the SCAQMD emission thresholds during project construction. The impact on air quality is less than significant during the construction.

<table>
<thead>
<tr>
<th>Year</th>
<th>Phase</th>
<th>ROG</th>
<th>NOx</th>
<th>CO</th>
<th>SOx</th>
<th>PM10</th>
<th>PM2.5</th>
<th>Unmitigated</th>
<th>Mitigated</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>Demolition</td>
<td>3.8332</td>
<td>38.4856</td>
<td>23.3044</td>
<td>0.0415</td>
<td>2.2282</td>
<td>1.8766</td>
<td>2.1917</td>
<td>1.8719</td>
</tr>
<tr>
<td>2019</td>
<td>Demolition</td>
<td>3.6174</td>
<td>35.9320</td>
<td>22.9571</td>
<td>0.0414</td>
<td>2.0969</td>
<td>1.7444</td>
<td>2.0658</td>
<td>1.7397</td>
</tr>
<tr>
<td>2019</td>
<td>Site Preparation</td>
<td>4.4572</td>
<td>45.6610</td>
<td>23.1217</td>
<td>0.0409</td>
<td>20.7296</td>
<td>12.2036</td>
<td>10.7932</td>
<td>6.7417</td>
</tr>
<tr>
<td>2019</td>
<td>Grading</td>
<td>2.6823</td>
<td>28.4216</td>
<td>17.1756</td>
<td>0.0320</td>
<td>8.1772</td>
<td>4.7145</td>
<td>4.5734</td>
<td>2.8624</td>
</tr>
<tr>
<td>2020</td>
<td>Building Construction</td>
<td>3.1681</td>
<td>25.7158</td>
<td>25.5285</td>
<td>0.0627</td>
<td>3.5842</td>
<td>1.7453</td>
<td>3.5842</td>
<td>1.7453</td>
</tr>
<tr>
<td>2020</td>
<td>Paving</td>
<td>1.8531</td>
<td>14.1312</td>
<td>15.4552</td>
<td>0.0251</td>
<td>0.9803</td>
<td>0.7540</td>
<td>0.9803</td>
<td>0.7540</td>
</tr>
<tr>
<td>2020</td>
<td>Coatings</td>
<td>70.9227</td>
<td>1.8021</td>
<td>3.2770</td>
<td>7.12E-03</td>
<td>0.5204</td>
<td>0.2215</td>
<td>0.5204</td>
<td>0.2215</td>
</tr>
<tr>
<td>Peak Daily Total</td>
<td>70.9227</td>
<td>45.6610</td>
<td>26.7096</td>
<td>0.0635</td>
<td>20.7296</td>
<td>12.2036</td>
<td>10.7932</td>
<td>6.7417</td>
<td></td>
</tr>
<tr>
<td>SCAQMD Threshold</td>
<td>75</td>
<td>100</td>
<td>550</td>
<td>150</td>
<td>150</td>
<td>55</td>
<td>150</td>
<td>55</td>
<td></td>
</tr>
<tr>
<td>Local Significance Threshold</td>
<td>--</td>
<td>236</td>
<td>2.817</td>
<td>--</td>
<td>21</td>
<td>11</td>
<td>21</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>Exceed Significance</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td></td>
</tr>
</tbody>
</table>

III. AIR QUALITY (continued)

a-c (continued)

Operating Phase

One phase of the proposed project involves a zoning change of existing industrial buildings. There is no impact on air quality from this phase. The second phase of the proposed project involves the construction of an additional industrial building of 146,890 sq.ft. The most recent version of the CalEEMod model (Version 2016.3.2) was used to calculate the construction emissions for the proposed project, as summarized below. The emissions rates shown are from the CalEEMod output tables. As shown in the table below, future daily operations would not exceed the SCAQMD emission thresholds. The impact on air quality is less than significant during operations. The project will not conflict with an air quality plan; will not violate any air quality standard; and will not produce a net increase of any criteria pollutant.

<table>
<thead>
<tr>
<th></th>
<th>ROG</th>
<th>NOX</th>
<th>CO</th>
<th>SO2</th>
<th>PM10</th>
<th>PM2.5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Onsite Area</td>
<td>3.3598</td>
<td>3.00E-04</td>
<td>0.0330</td>
<td>0.000</td>
<td>1.20E-04</td>
<td>1.20E-04</td>
</tr>
<tr>
<td>Onsite Energy</td>
<td>0.0749</td>
<td>0.6810</td>
<td>0.5721</td>
<td>4.09E-03</td>
<td>0.0518</td>
<td>0.0518</td>
</tr>
<tr>
<td>Offsite mobile</td>
<td>0.9650</td>
<td>5.1987</td>
<td>15.1814</td>
<td>0.0531</td>
<td>4.3025</td>
<td>1.1860</td>
</tr>
<tr>
<td>Peak Daily Total</td>
<td>4.3997</td>
<td>5.8800</td>
<td>15.7865</td>
<td>0.0572</td>
<td>4.3544</td>
<td>1.2379</td>
</tr>
<tr>
<td>SCAQMD Threshold</td>
<td>75</td>
<td>100</td>
<td>550</td>
<td>150</td>
<td>150</td>
<td>55</td>
</tr>
<tr>
<td>Exceed Significance</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>

See a-c above. The closest sensitive receptor is 1575 feet north with the SFPP Railway and Interstate 10 between the project site and the sensitive receptors. The prevailing wind is from the northwest to the southeast. The impact of substantial pollutant concentrations to sensitive receptors is less than significant.

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1. Air Quality Impact Study. Environmental Regulatory Compliance. LLC. September 2018
2. see appendix C for wind rose obtained from Iowa state University Web site at http://mesonet.agron.iastate.edu/sites/site.php?station=HUO&network=CA_ASOS
The proposed project is in CalEnviroScreen census tract 6065044300. The prevailing wind, from southwest to northeast will effect census tract 6065044101 and this census tract has a population of 2973. The majority of the zoning in this tract is Highway Commercial. The number of homes within 1/4 mile radius of the proposed project site is 66.

As shown in the table below the lbs/day of all pollutants is well below the LST. The facility does not generate odors, and does not use chemicals that generate odors. The long-term operations of the proposed project will keep any industrial activity of the warehouse indoors. The impact of objectionable odors to a substantial number of people is less than significant.

Summary of Operational Localized Significance (2020 Operational)

<table>
<thead>
<tr>
<th></th>
<th>NOx</th>
<th>CO</th>
<th>PM_{10}</th>
<th>PM_{2.5}</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peak Daily Emissions</td>
<td>5.8800</td>
<td>15.7865</td>
<td>4.3544</td>
<td>1.2379</td>
</tr>
<tr>
<td>LST Thresholds</td>
<td>236</td>
<td>2.817</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Significant Emissions</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Via Email and Overnight Mail

January 30, 2019

Sonia Pierce, Senior Planner
Community Development Department
City of Banning
99 E. Ramsey Street
Banning, CA 92220
spierce@ci.banning.ca.us

Maryann Marks, Interim Director of
Community Development Department
City of Banning
99 E. Ramsey Street
Banning, CA 92220
cmp@ci.banning.ca.us

Marie A. Calderon, City Clerk
City Clerk's Office
City of Banning
99 E Ramsey Street
Banning, CA 92220
l sampson@ci.banning.ca.us

Re: Comment on Lawrence Equipment Industrial Warehouse Initial Study | Mitigated Negative Declaration

Dear Ms. Pierce, Ms. Marks and Ms. Calderon:

I am writing on behalf of the Laborers International Union of North America, Local Union 1184 and its members living in the City of Banning (“LIUNA”), regarding the Initial Study and Mitigated Negative Declaration (“IS/MND”) prepared for the Project known as the Lawrence Equipment Industrial Warehouse (aka General Plan Amendment 18-2501, Zone Change 18-3501, Design Review 18-7001 and Environmental Assessment 18-1501), including all actions related or referring to the construction of a new single story 146,890 square feet industrial warehouse (with 73,445 square feet of light manufacturing & 73,445 square feet of industrial warehousing) located on the north side of Lincoln Street at 1897 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street, 1617 West Lincoln Street, and 1589 West Lincoln Street between 22nd and 8th Street on APNs: 5387-230-014, 538-220-002 to -004, 540-180-041 to -045 in the City of Banning (“Project”).

After reviewing the IS/MND, we conclude the IS/MND fails as an informational document, and that there is a fair argument that the Project may have adverse environmental...
January 30, 2019
Comment on the Lawrence Equipment Industrial Warehouse IS/MND
Page 2 of 2

impacts. Therefore, we request that the City of Banning ("City") prepare an environmental
impact report ("EIR") for the Project pursuant to the California Environmental Quality Act
("CEQA"), Public Resources Code section 21000, et seq.

We reserve the right to supplement these comments during public hearings
concerning the Project. Galante Vineyards v. Monterey Peninsula Water Management Dist.,

Sincerely,

Richard Drury
Lozeau | Drury LLP
Response to Comment Letter A – Lozeau Drury, LLP on behalf of Laborers International Union
North America, Local Union No. 1184 (LIUNA), January 30, 2019

Response to Comment D-1:
The comment letter is of a general nature regarding the Project. While the first paragraph identifies the Project as “Lawrence Equipment Industrial Warehouse”, the second paragraph of the letter requests that the City of Banning prepare a Draft EIR for the proposed project. On January 29, 2019, Lozeau Drury, LLP contacted the City regarding the open comment period, the public hearing dates and also requested copies of appendices that were identified in the Initial Study.

Lozeau Drury, LLP were informed of the open comment period and that their comments will be accepted, they were sent the requested appendices and given the public hearing dates.

The letter does not provide any specific comments nor provide any substantial evidence regarding the MND. No new environmental issues have been raised by this comment.
ATTACHMENT 6

Public Hearing Notice

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning City Council, to be held on Tuesday, February 26, 2019, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the proposed project. The subject parcel is located generally on the north side of Lincoln Street at 1897 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street, 1589 West Lincoln Street and vacant parcels to the east also known as (APN 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045 in the City of Banning.

Information regarding the Mitigated Negative Declaration, General Plan Amendment, Zone Change and Design Review can be obtained by contacting the City's Community Development Department, Planning Division at (951) 922-3125, or by visiting 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 to this item are invited to attend the hearing, or to send their written comments to the Community Development Department, Planning Division, City of Banning at 99 E. Ramsey Street, 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 recommendation 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

Maryann Marks, AICP
Interim Community Development Director

Dated: February 26, 2019
Publish: February 15, 2019
TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Rochelle Clayton, Deputy City Manager
Shiloh Rogers, Purchasing Manager

MEETING DATE: February 26, 2019


RECOMMENDATION:

Adopt Resolution 2018-156, approving an amendment to Purchasing Policy No. B-30 to streamline and enhance the procurement and purchasing process.

JUSTIFICATION:

Policies must be updated from time to time. A new section on insurance requirements will provide guidance and enable staff to procure and process contracts and special events more efficiently and effectively.

Other changes are summarized as follows:

1. Article 2, section 3, 104 (3): Updated Table to be consistent with Muni code
2. Article 2, section 3, 104 (6): Added exemptions for staffing (temporary personnel services), special instructors (community Center/events), and purchase of power for Public Utilities
3. Article 2, section 3, 104 (7): Public Utilities exceptions; items listed will be subject “informal procurement” only, and are require to be approved by Council annually
4. Article 6, section 23: Removed “Travel” to accommodate the revision of the City’s standalone travel policy
5. Article 6, section 23, 100 – 104: Added (and replaced old section no. 23) with Vendor Commercial Liability Insurance

Additionally, a form has been developed to waive certain insurance requirements based on meeting criteria and obtaining department head and City Manager approval.
BACKGROUND:

The City Council approved Purchasing Policy B-30 and amended Ordinance 1508 on June 27, 2017. The proposed amendment to the Purchasing Policy does not require an amendment to Ordinance 1508.

FISCAL IMPACT:

A salary savings is anticipated by reducing staff time to process purchases and contracts.

ATTACHMENTS:

1. Resolution 2018-156
2. Redlined Purchasing Policy B-30
3. Vendor Insurance Waiver Request Form
4. Sample Insurance Certificate with Endorsements

Approved by:

[Signature]

Douglas Schulze
City Manager
ATTACHMENT 1
Resolution 2018-156
RESOLUTION 2018-156

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING PURCHASING POLICY B-30

WHEREAS, City of Banning must update its policies from time to time; and

WHEREAS, City Council approved Purchasing Policy B-30 on June 27, 2018; and

WHEREAS, Purchasing Policy B-30 did not have a section specific to insurance requirements for vendors that do business with the City; and

WHEREAS, exemptions and exceptions are necessary for an effective Purchasing Policy; and

WHEREAS, the City now desires to adopt a resolution approving the addition of a section for insurance requirements and other amendments.

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

SECTION 1. The Banning City Council adopts Resolution 2018-156 approving the amendment to Purchasing Policy B-30.

SECTION 2. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 26th day of February, 2019.

ATTEST:

Arthur L. Welch, Mayor
City of Banning

Daryl Betancur, Deputy City Clerk
City of Banning
APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-156, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2019, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

_________________________
Daryl Betancur, Deputy City Clerk
City of Banning, California
ATTACHMENT 2
Redlined Purchasing Policy
B-30
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SECTION 1 – PROCUREMENT SUMMATION

1-100 Preface

(1) Open and Transparent

a. The City of Banning is committed to transparency and accountability to strive to make businesses aware of all procurement opportunities available to them.

(2) Core Philosophy and Values:

a. Conduct our business to the highest standards of ethics, integrity and compliance.

b. Provide outstanding customer service through proactive listening, planning and communication pertaining to the needs of our customers and vendors.

c. Provide expert knowledge and advice of procurement policies, and processes.

1-101 Purpose

(1) The purpose of this policy is to provide the City of Banning a means of assuring continuity and uniformity in its purchasing operation, and to define the responsibilities for purchasing supplies, services, tools, equipment and installation for the City of Banning. These guidelines are not intended to address every issue, exception, or contingency that may arise in the course of purchasing activities. The basic standard that should always prevail is to exercise good judgement in the use and stewardship of City resources, including keeping within the budget authorized by the City Council, and to be certain of quantity, quality, cost, delivery date, warranty and applicable insurance coverage before accepting the purchase.

(2) Support management in cooperatively developing and executing sourcing strategies with the City’s departments for products and services that meet or exceed the City’s requirements and to perform these services to the highest ethical and professional standards.

(3) Provide leadership through contract negotiation, and vendor management.

(4) Promote the use of small, disadvantaged and minority-owned businesses when possible.

(5) Support the City’s commitment to environmental responsibility.

(6) Support the City’s commitment to the local business community by supporting use of local businesses when possible.

(7) Assist departments involved in Federal and State grant agreements in maintaining compliance to applicable regulations.
(8) Assist departments in maintaining compliance to all City policies regarding contracting and purchasing.

(9) Provide a proactive purchasing environment by studying the market trends, examining procurement laws and educating the City end users of such information through purchasing policy and procedure revisions and training. City Council approval of the purchasing policy and procedures are required every 5 years at minimum.

(10)
ARTICLE 2 – PURCHASING POLICY

SECTION 2 – OBJECTIVE OF THE PURCHASING POLICY

2-100  Procurement Policy

(1) In accordance with the policies adopted by the City Council of the City of Banning ("City"), all purchases, regardless of sources of funds will be governed by the California Government Code Section 54202 as referenced below:

"Every local agency shall adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the local agency. Purchases of supplies and equipment by the local agency shall be in accordance with said duly adopted policies and in accordance with all provisions of law governing same. No policy, procedure, or regulation shall be adopted which is inconsistent or in conflict with statute."

(2) It shall be the procurement policy of the City to obtain all supplies, equipment and services at the lowest cost to the City that meet or exceed the City's specifications for performance, quality and availability at the time of purchase. In conforming to this policy, the capability, capacity and
historical performance of the supplier will be considered and weighed in the decision process. Sourcing decisions will also be tempered by supplier diversity and the environmental impact considerations. Competitive bids or pricing will be solicited, unless a sole source provider is specified, in compliance with all applicable Federal and State regulations, California Government Code and City policies.

(3) In accordance with Chapter 3.24 of the Banning Code, City purchases and contracts will be made pursuant to these guidelines. Applicable competitive bidding categories, authorization limits, or contract award procedures will be based on unit cost, total purchase cost for consolidated bid items, or fiscal year aggregates in the case of blanket purchase orders or similar ongoing purchasing arrangements. Staging of purchases in order to avoid these competitive bidding procedures or authorization limits are prohibited.

SECTION 3 – ROLES, RESPONSIBILITIES AND SCOPES OF AUTHORITY

3-100 Responsibilities

(1) The responsibility for the purchase of all products, materials, supplies, furniture, equipment, vehicles and services is divided between the Purchasing Officer and each department. Although assigned different responsibilities, all core systems, methods, policies and procedures remain common. Shared responsibilities include overseeing the professional relationships between City of Banning and its vendors and contractors and insuring the highest ethical and professional standards.

(2) It is the obligation and the responsibility of every procurement decision-maker to represent the City in a professional and ethical manner. As a procurement decision maker, you must:

a. Follow the lawful instructions, policies and procedures of the City, City Council, City Manager, director, manager, supervisor or any person in a higher-level position of authority within your organization.

b. Obtain the maximum benefit for funds spent as an agent for the City.

c. Refrain from engaging in any procurement activity in which you have a personal or indirect financial interest.

d. Avoid engaging in personal business with any company that is a supplier to the City.

e. Avoid lending money to or borrowing money from any supplier.

3-101 Delegation of Authority

(1) The City Manager has been granted the authority and the responsibility of procurement of all materials, equipment, supplies, and services necessary for operations of the City. The City Manager has delegated specific authority and further delegate’s authority to others prior to the execution of all contracts and agreements for procurement of all materials, equipment, supplies
and services necessary for the day-to-day operations of the City. 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, (Banning Municipal Code 3.24.010).

3-102 Purchasing Officer

(1) The Purchasing Officer reports directly to the Administrative Services Director of the City, or his or her designee.

(2) Except where statutes or ordinances dictate otherwise, the City Purchasing Officer is to carry out the specific duties listed in this Policy, plus any additional duties as provided by resolution of the City Council, Codified Municipal Ordinances of the City of Banning, or the laws of the State of California and the United States of America. 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;
ADMINISTRATIVE PROCEDURES
City of Banning

<table>
<thead>
<tr>
<th>APPROVAL DATE</th>
<th>FINANCE POLICIES</th>
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<tbody>
<tr>
<td>06/27/17</td>
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<td>B-30</td>
</tr>
<tr>
<td>APPROVED BY</td>
<td>PROCUREMENT POLICIES &amp; PROCEDURES</td>
<td></td>
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<tr>
<td>City Council</td>
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<td></td>
<td>EFFECTIVE DATE</td>
<td>02/26/2019</td>
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</tbody>
</table>

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 agreement 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.

m. Ensure full and open competition on all purchases as required by this policy;

n. Review and process Purchase Requisitions;

o. Prepare and issue informal and formal bid documents for all departments, (i.e., Requests for Quotations, Invitation for Bids, Requests for Proposals and Statements of Qualifications);

p. Make purchase award recommendations to the appropriate authority;

q. Notify vendors of purchase award;

r. Assist in audits and reviews;

s. Encourage City involvement in public procurement organizations in an effort to promote the public procurement profession through education and peer networking.

3-103 Departments

(1) Departments are charged with the following responsibilities in the purchasing process:

a. To provide the Administrative Services Director, at the beginning of each fiscal year, an updated authorized signature list designating those individuals who are delegated the authority to make purchases per the policies and procedures as described herein;

b. To anticipate requirements sufficiently in advance to allow adequate time to obtain goods in accordance with the best purchasing practices;

c. To prepare purchase requisitions in accordance with instructions so as to minimize the processing effort;

d. To provide detailed accurate specifications to ensure goods obtained are consistent with requirements and expectations;
e. To inform Purchasing of any vendor relations’ problems, shipping problems, (i.e.,
damaged goods, delivery issues and/or order discrepancies, etc.) and any situations that
could affect the purchasing function;

f. To assist Purchasing with the review of all bids received for compliance with
specifications, and provide Purchasing with written documentation regarding their
findings;

g. To not "split" orders for the purpose of avoiding procurement requirements;

h. To provide on all new vendors a completed vendor packet;

i. Purchasing Liaisons shall follow the Purchasing Policy set forth herein, as well as, those
procedures established by the City Purchasing Officer to ensure a procurement system
that is fair, transparent, effective, efficient, and compliant with legal requirements and
City Policy.

3-104 Authority and Thresholds

(1) All purchasing requests, regardless of dollar amount, must first be reviewed and approved by
the respective Department Head.

(2) All items, regardless of amount - quantity or dollar - shall be provided to the City Purchasing
Officer to review, provide guidance, and for processing.

(3) The Authorization Table outlines who may approve contracts and legally binding agreements
with external parties that obligate the City and shall apply to all purchases, including Capital
Projects and Professional Services Contracts.
**Administrative Procedures**

**City of Banning**

<table>
<thead>
<tr>
<th>APPROVAL DATE</th>
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</tr>
</tbody>
</table>

**Policy Title**: Procurement Policies & Procedures

<table>
<thead>
<tr>
<th>Purchase Type</th>
<th>Purchase Amount</th>
<th>Procurement</th>
<th>Contract Type</th>
<th>Internal Approval</th>
<th>Vendor Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Goods, Widgets, Equipment</strong></td>
<td><strong>$0.00 - $5,000.00</strong></td>
<td>1 Quote</td>
<td>Purchase Order</td>
<td>1. Department Head/Manager or Above</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td><strong>$5,001 - $25,000.00</strong></td>
<td>3Quotes</td>
<td>Purchase Order</td>
<td>1. Department Head/Manager or Above 2. City Manager if &gt; 10k</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td><strong>$25,001 +</strong></td>
<td>Formal Bidding</td>
<td>Purchase Order</td>
<td>1. Department Head/Manager or Above 2. City Manager 3. City Council</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Services, including Professional (non-public works)</strong></td>
<td><strong>$0.00 - $5,000.00</strong></td>
<td>1 Quote</td>
<td>Purchase Order</td>
<td>1. Department Head/Manager or Above</td>
<td>1. Insurance 2. City Business Tax 3. CA Business License</td>
</tr>
<tr>
<td></td>
<td><strong>$5,001 - $25,000.00</strong></td>
<td>3Quotes</td>
<td>Purchase Order</td>
<td>1. Department Head/Manager or Above 2. City Manager if &gt; 10k</td>
<td>1. Insurance 2. City Business Tax 3. CA Business License</td>
</tr>
<tr>
<td></td>
<td><strong>$25,001 +</strong></td>
<td>Formal Bidding</td>
<td>Purchase Order</td>
<td>1. Department Head/Manager or Above 2. City Manager 3. City Council</td>
<td>1. Insurance 2. City Business Tax 3. CA Business License 4. CSLB 5. DIR</td>
</tr>
<tr>
<td><strong>Services, Public Works only</strong></td>
<td><strong>$0.00 - $5,000.00</strong></td>
<td>1 Quote</td>
<td>Purchase Order</td>
<td>1. Department Head/Manager or Above</td>
<td>1. Insurance 2. City Business Tax 3. CA Business License</td>
</tr>
<tr>
<td></td>
<td><strong>$5,001 - $25,000.00</strong></td>
<td>3Quotes</td>
<td>Purchase Order</td>
<td>1. Department Head/Manager or Above 2. City Manager if &gt; 10k</td>
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<tr>
<td></td>
<td><strong>$25,001 +</strong></td>
<td>Formal Bidding</td>
<td>Purchase Order</td>
<td>1. Department Head/Manager or Above 2. City Manager 3. City Council</td>
<td>1. Insurance 2. City Business Tax 3. CA Business License 4. CSLB 5. DIR</td>
</tr>
</tbody>
</table>

**City of Banning Purchasing Authorization Table**

- **purchase type**, **purchase amount**, **procurement method**, **contract type**, **internal approval level**, **vendor requirements**

- **$0 - $5,000**: 1 written/print quote, purchase requisition & short form purchase order, department head/manager or above
- **$5,001 - $10,000**: Open market bid process to obtain 3 printed quotes, purchase requisition, purchase order (contract applicable for services)
3-105  Notes and Exceptions

(1) In the absence of the approver for a given request, authorization will be obtained by his/her appointee or the next highest authority in accordance with the Authorization Table.

(2) At no time can purchases be “split” or otherwise billed separately to circumvent the spending authority.

(3) Purchase orders shall be issued prior to ordering supplies, tools and equipment, services and installations, and not “after the fact” for work already done or materials already ordered.

(4) With the exception of City Council authorized procurements, increases to previously authorized procurements are permitted if the increased procurements remain within the approver’s limit. Freight and sales tax are a cost of doing business and shall be included in the total cost of the procurement.

(5) Written notification by the Purchasing Officer of all City Manager approved contracts will be provided quarterly to the City Council for review by the Purchasing Officer.

(6) Exceptions to standard purchasing methods and spending authorities are specifically limited to the following:

<table>
<thead>
<tr>
<th>Exception Description</th>
<th>Exception Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertisement and Notices (Per CA PCC 20169).</td>
<td>City Debt Service and Loans.</td>
</tr>
<tr>
<td>Conference Registration, subscriptions, membership dues, educational seminars and training</td>
<td>When no bids are received on formal or informal solicitations, educational seminars and training</td>
</tr>
<tr>
<td>Emergencies endangering the health and safety of City staff, customers and residents.</td>
<td>Gasoline credit card purchases (should be issued a blanket Purchase Order), gasoline, diesel or aviation fuel</td>
</tr>
<tr>
<td>Insurance premiums (worker’s compensation, general liability, etc.).</td>
<td>Payments to Department of Water Resources and related expenses (State Water Contractors, Inc., etc.) and to other governmental units</td>
</tr>
</tbody>
</table>

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# ADMINISTRATIVE PROCEDURES

## City of Banning

<table>
<thead>
<tr>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utility Bills (phone, gas, electric, etc.)</td>
<td>Payments to Other Governmental Units</td>
</tr>
<tr>
<td>Permitting and other regulatory fees (construction permits, LAFCO payment, etc.)</td>
<td>Petty Cash Replenishment, refunds and travel expenses/advances</td>
</tr>
<tr>
<td>Postage/Delivery/Messenger Services</td>
<td>Professional Legal and Human Resources Confidential Consultant Services</td>
</tr>
<tr>
<td>Real Property/Easement Acquisition and Rental Property</td>
<td>Purchases that meet sole source procurement requirements.</td>
</tr>
<tr>
<td>Requisitions for products or services less than $5,000.</td>
<td>Software license maintenance</td>
</tr>
<tr>
<td>When the Purchasing Officer determines the commodity can be procured using a cooperative purchasing agreement, Subscriptions/Membership Dues</td>
<td>Trade Circulars, Books or CD’s</td>
</tr>
<tr>
<td>Staffing, temporary services</td>
<td>Special instructors for community centers and events.</td>
</tr>
<tr>
<td>Gasoline, diesel or aviation fuel.</td>
<td>Utility Bills (phone, gas, electric, etc.)</td>
</tr>
<tr>
<td>When no bids are received on formal or informal solicitations.</td>
<td>When the Purchasing Officer determines the commodity can be procured using a cooperative purchasing agreement.</td>
</tr>
<tr>
<td>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</td>
<td>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.</td>
</tr>
</tbody>
</table>
governmental agency. City Council consent is required for such arrangements
where the estimated value of the supplies is $25,000 or more.

Purchase of power for Public Utilities

(7) Public Utilities Exception. The Water, Electric and Sewer Utilities have a need for compatibility
within their respective systems for uniform operation, maintenance and replacement, and this
need can be met by procuring certain supplies, equipment, and materials supplies through
Informal Procurement or Negotiated Procurement. Such procurements may be exempted from
formal competitive procurement requirements if the City Council so determines.

a. If it appears to the Purchasing Officer to be in the best interest of overall economy and
efficiency of the City to do so, and it is within existing budget appropriation, the
following supplies, equipment, and materials are determined to be peculiar to the needs
of the Water Utility, the Electric Utility, and the Sewer Utility and may be acquired by
Informal Procurement or Negotiated Procurement, regardless of their estimated
procurement expenditure amounts, provided that the City Council shall have approved
the proposed acquisition if required under the provisions of the Municipal Code, either
by approval of the procurement contract or approval of annual purchase orders:

<table>
<thead>
<tr>
<th>Automatic Reclosers with associated controllers and communications equipment</th>
<th>Power Generation Materials, Equipment, Parts and Repair</th>
</tr>
</thead>
<tbody>
<tr>
<td>Batteries and Chargers</td>
<td>Pipe and Pipe Fittings</td>
</tr>
<tr>
<td>Blower Equipment, Parts and Repair</td>
<td>Pole Line Hardware</td>
</tr>
<tr>
<td>Bus and Bus Support</td>
<td>Poles, Utility</td>
</tr>
<tr>
<td>Capacitors</td>
<td>Mobile Substation</td>
</tr>
<tr>
<td>Chemicals</td>
<td>Prefabricated Electrical Enclosures</td>
</tr>
<tr>
<td>Circuit Breakers</td>
<td>Pumps and Repairs</td>
</tr>
<tr>
<td>Circuit Switcher</td>
<td>Regulators</td>
</tr>
<tr>
<td>Conduit and Duct</td>
<td>Relaying and Protective Devices</td>
</tr>
<tr>
<td>Connectors</td>
<td>Road and Backfill Materials</td>
</tr>
<tr>
<td>Dewatering Equipment, Parts and Repairs</td>
<td>SCADA Equipment</td>
</tr>
<tr>
<td>Electric Motor Controls</td>
<td>Substation and Distribution Automation Equipment</td>
</tr>
<tr>
<td>Electrical Motors, Panels, Panel Equipment, Materials and Repairs</td>
<td>Substation Online Monitoring Equipment and Devices</td>
</tr>
<tr>
<td>Electrical Line Devices</td>
<td>Substation Supervisory Equipment</td>
</tr>
</tbody>
</table>
3-106 Violations of Purchasing Policy and Municipal Codes

(1) Employees with purchasing authority will be held accountable for the actions they take while operating in their granted fiduciary purchasing authority, in accordance with, Government Code §36900, et seq..

(2) Any individual committing City funds without proper authorization does so at his or her own financial risk and consequence. City may consider the purchase void and decline to pay the invoice. In such a case, the individual has acted at his or her personal financial risk and the supplier may look for payment from the individual who placed the order. The individual may risk being suspended or immediately terminated.

(3) Employees shall avoid the intent and appearance of unethical or compromising practice in purchasing relationships, actions, and communications; employees shall do what is in the best interest of the City.

(4) If a purchasing violation has occurred, employee will receive Notice of Investigation and will be required to cooperate.

(5) Risk/Legal or independent consultant will conduct an investigation to determine cause(s), effect(s), act(s), occurrence(s), and to provide recommendations on remedies. Dependent upon the discovered violation(s), event(s) and occurrence(s), Risk/Legal will forward the report to the City Manager, City Purchasing Officer, City Attorney and the City Council with the investigation findings, suggestions, and recommendation pertaining to future prevention.

(6) Dependent upon the investigative findings:
a. Employee’s purchasing authority may be suspended or revoked;

b. Employee may be fined for violations and infractions;

c. Employee’s employment with the City may be suspended and/or terminated; and

d. Employee may be fined, prosecuted, and found guilty before a criminal court.

ARTICLE 3 – ETHICS AND PURCHASING

SECTION 4 – PURCHASING CODE OF ETHICS

4-100 Ethical Requirements of Department Heads and Purchasing Liaisons

(1) Any person employed by the City of Banning who purchases goods and services, or is involved in the purchasing process for the City, shall be bound by this Purchasing Code of Ethics and shall:
a. Work closely with the Purchasing Officer on all purchases, regardless of amount – quantity or dollars;

b. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications;

c. Demonstrate loyalty to the City by diligently following all lawful instructions while using professional judgment, reasonable care, and exercising only the authority granted;

d. Conduct all purchasing activities in accordance with federal and state laws and the City’s Purchasing Policy;

e. Refrain from any private or professional activity that would create a conflict between personal interests and the interests of the City;

f. Identify and strive to eliminate participation of any individual in operational situations where a conflict of interest may be involved;

g. Never solicit or accept money, loans, credits, or prejudicial discounts, and avoid the acceptance of gifts (of any amount), entertainment, favors, gratuities or services from present or potential suppliers which might influence or appear to influence purchasing decisions;

h. Promote positive supplier relationships through impartiality in all phases of the purchasing process;

i. Display the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the public being served;

j. Strive to obtain the maximum value and of best quality for each dollar of expenditure;

k. Provide an environment where all business concerns, large or small, disabled, majority- or minority-owned, are afforded an equal opportunity to compete for City business;

l. Enhance the proficiency and stature of the purchasing profession by adhering to the highest standards of ethical behavior; and

m. Consistently stay updated on the City’s Purchasing Policy.

4-101 Policy

(1) Public employment is a public trust. Public employees must discharge their duties impartially to assume fair, competitive access to government procurement by responsible contractors. Moreover, they shall conduct themselves in such a manner as to foster public confidence in the integrity of the City procurement process.

(2) The Purchasing Code of Ethics is maintained and enforced by the City Purchasing Officer.
4-102  "Arm's Length" Principle

(1) All procurements must be "Arm’s Length" transactions; meaning that the City and vendor to the transaction have no conflict of interest in the transaction. Arm’s length transactions are made by two parties freely and independently of each other, and without some special relationship, such as being a relative, having another deal on the side or one party having complete control of the other. An “Arm’s Length” can create an equitable agreement that will stand up to legal and public scrutiny.

4-103  General Standards of Ethical Conduct

(1) Any attempt at personal gain through public employment by conduct inconsistent with the proper discharge of the employee’s duties is a breach of public trust.

(2) Violation of the City’s receipt of donation and gifts policy may constitute a misdemeanor, and any employee found in violation shall be subject to discipline, including, in appropriate cases, termination of employment and criminal prosecution.

(3) To the extent that violations of the ethical standards of conduct constitute violations of the State of California Government Code, employees shall be punishable as provided therein and to the fullest extent by law. Such sanctions shall be in addition to any other remedies, which the City may pursue in its interest.

4-104  Conflicts of Interest

(1) To avoid any real or perceived conflict of interest, all proposals or contracts for professional services should, to the extent possible, identify any relative of the contractor of his/her employees who are presently employed by the City.

   a. In an effort to avoid any real or perceived conflict of interest, all proposal and contractual language for professional services shall include a clause requiring prospective and/or current vendors to notify the City of any such relationship between the vendor and the City.

   b. Upon notification, the manager or responsible party of Purchasing shall notify the Administrative Services Director, Deputy City Manager, or City Manager of the City for further review and action, as deemed appropriate.

   c. Notification of the relationship between the vendor and any City employee shall be placed in the Purchasing contract file for future reference, as deemed necessary.

(2) The Political Reform Act, Government Code Section §87100-87105; addresses conflicts of interest as follows:

   a. "No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his or her official position to influence a
b. Upon discovery of an actual or potential conflict of interest, a City employee shall promptly file a Written Statement of Disqualification with the City Purchasing Officer and shall withdraw from further participation in the transaction involved. The City employee may, at the same time, request through his or her Department Head an advisory opinion from the City Attorney and/or the delegated legal affairs officer, if applicable, as to what further participation, if any, the City employee may have in the transaction.

c. No agent or representative, serving as a purchasing evaluator or otherwise, shall make, participate in making, or in any way attempt to use his or her delegated volunteer position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest and/or will have a material financial effect on the delegated volunteer or a member of his or her immediate family, or on:

i. Any business entity in which the volunteer agent or representative has a direct or indirect investment worth two thousand dollars ($2,000.00 USD) or greater.

ii. Any real property in which the volunteer agent or representative has a direct or indirect interest worth two thousand dollars ($2,000.00 USD) or greater.

iii. Any source of income, gifts, gratuities, and loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars ($500.00 USD) or more in the value provided to, received by or promised to the volunteer agent or representative within twelve months prior to or after the time when the decision is made.

iv. Any business entity in which the volunteer agent or representative is a director, officer, partner, trustee, employee, or holds any position in management.

v. Any donor of, or any intermediary or agent for a donor of, gift(s) or gratuities aggregating two hundred fifty dollars ($250.00 USD) or greater in value provided to, received by, or promised to the volunteer agent or representative within twelve months prior to or after the time when the decision is made.

vi. For the purposes of this sub-section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official’s agents, spouse, and dependent children own directly, indirectly, or beneficially a ten percent interest or greater.”
d. Agents, representatives, and/or volunteers of the City of Banning shall not be financially interested in, and be purchasers at any sale of, any City of Banning contractual relationship.

4-105 Contracts with City Employees or Family of City Employees

(1) No contracts shall be entered into between the City, including all departments thereof, and any employee or officer of the City who is paid for working for the City. No employee or officer shall directly or indirectly solicit any contract between him or herself and the City.

(2) In the event that a City employee enters into a contractual agreement, in violation of this policy, the person or persons having obtained knowledge that a contractual relationship exists between the City and a City employee shall make immediate notification to the manager or responsible party of Purchasing.

(3) The manager or responsible party of Purchasing shall make immediate notification to the Administrative Services Director, Deputy City Manager, or City Manager as well as the Director of Human Resources for action as deemed appropriate.

(4) No contracts shall be entered into between the City, including all departments thereof, and any family member of an employee or officer of the City without disclosure of the relationship to the City Manager, Deputy City Manager, and Administrative Services Director AND written approval by the City Manager.

4-106 Professional Service Contracts with Former City Employees

(1) To avoid the potential for conflict of interest, or any appearance thereof, the City requires that all requests for entering into professional service contracts with former employees separated for less than one year be approved by the City Council.

(2) Under emergency circumstances, the Budget and Finance Committee is authorized to give preliminary approval to such contractual arrangements and report such preliminary approval to the City Council for final approval or denial at their next scheduled meeting.

(3) All Purchasing Division policies and procedures, or portions thereof, related to the administration of professional services contracts, and not conflicting with this resolution, shall remain in effect.

(4) All contracts shall contain language that states that the contract is contingent upon final approval by the City Council.

4-107 Use of Confidential Information

(1) Confidential Information is information which concerns or relates to the trade secrets, processes, operations, style of works, or apparatus, or to the production, sales, shipments, purchases, transfers, identification of patrons and residents, inventories, or amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or
other organization, or other information of commercial value, the disclosure of which is likely to have the effect of either impairing the City's ability to obtain such information as is necessary to perform its functions, or causing substantial harm to a person, firm, partnership, corporation, or other organization from which the information was obtained, unless the City is required by law to disclose such information. Employees are prohibited from disclosing any confidential information.

(2) Any and all information that is deemed “confidential” shall be provided to the City Purchasing Officer who shall then review, seek Legal guidance, and possibly disclose the information that may or may not be confidential.

4-108 Equal Opportunity

(1) City employees shall ensure that all vendors receive an equal opportunity to do business with the City. This opportunity is to be provided without regard to race, religion, sex, age, national origin, or physical disability.

(2) The City of Banning is committed to the principle of diversity and equal opportunity in all of its endeavors and applies this principle in its procurement activity with the objective of encouraging participation by qualified vendors categorized as small, disadvantaged, veteran, minority or women-owned enterprises. The City believes that strengthening and expanding its supplier base in these business classifications not only contributes to lowering our operational costs, but also improves the overall health of the business community within which we exist. It is a practice of the City to actively identify and solicit qualified small, disadvantaged, veteran, minority or women-owned businesses and to provide and promote equal opportunities for such vendors within the City in order to promote vendor diversity.

4-109 Conflicts of interest – Contractors/Vendors

(1) Purchasing liaisons shall complete the Conflicts Check of potential vendors.

   a. May be detrimental to the City's interest and, therefore, would cause the City not to enter into a contract; or

   b. May arise during the performance of the required services and, therefore, would provide reason for termination with cause.

(2) The City Purchasing Officer, and any legal guidance sought by the City Purchasing Officer, will be the decision maker in determining if such a conflict would preclude the City from entering into a contract or possibly be reason for termination with cause. Disputed Purchasing Officer decisions will be re-evaluated and resolved by the City Manager.
ARTICLE 4 – PURCHASING METHODS AND PROCEDURES

SECTION 5 – COMPETITIVE BID PROCESS

5-100 Competitive Sourcing

(1) It is the policy of City of Banning to obtain competitive pricing, proposals or quotations on all products and services over $5,000 used by the City. All proposals and quotations received will be evaluated based on quality, service, compliance to specifications and price. All awards will be
made in the best interest of the City. Any or all proposals may be rejected at the discretion of City of Banning's City Council.

(2) The competitive sourcing process is required where the product or service can be obtained from more than one source. Unless approved for sole source procurement or otherwise covered under existing contracts, all requisitioned products or services totaling over $5,000 or more individually, or as a system including multiple components, will be competitively sourced.

(3) While participation in the competitive sourcing process by as many qualified vendors as possible, at least three proposals are required for purchases over $5,000.

5-101 Types of Solicitations

(1) When seeking information from vendors, it is important for Purchasing to realize the specific type of goods and/or services required and to use the appropriate type of solicitation document. There are important differences among various documents used to solicit responses from vendors:

   a. *Request for Information (RFI)* – An RFI is used when you’re not certain what you want or you don't know what is available in the marketplace. The information received as a result of the RFI may assist in determining whether a formal request for bid or proposal is necessary.

   b. *Invitation for Bid (IFB)* - An IFB is used when you know precisely what you need and have precise requirements and specifications, (see 5-102 below). Formal bid process over $25,000.

   c. *Request for Proposal (RFP)* - An RFP is a hybrid of these documents. An RFP is used when you have a general idea with some specifications and/or it’s a large, complex project with potential for multiple solutions, (see 5-102 below). *Informal or Formal* bid process over $25,000.

   d. *Request for Quotation (RFQ)* – An RFQ is a standard business process used to invite suppliers into a bidding process to bid on specific products or services. Informal bid process, $5,001 - $25,000.

   e. *Request for Statement of Qualifications (SOQ)* – An SOQ is often distributed before initiation of the RFP process. It is used to gather vendor information from multiple companies to generate a pool of prospects. This eases the RFP review process by preemptively short-listing candidates, which meet the desired qualifications.

5-102 Differences Between an IFB and an RFP

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<th>Invitation for Bid (IFB)</th>
<th>Request for Proposal (RFP)</th>
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5-103 Overview of the Bid Process

(1) A “kick-off meeting” should be held with the Purchasing Officer to establish a time line and approval process. It will be determined at that time what the process shall be, who will approve, and if Risk will need to determine if insurance requirements are applicable.

(2) The purchasing process begins with the submission of the “Purchase Requisition,” and “Scope of Work,” (SOW), which is a description of services, specifications, description of goods, proposal evaluation criteria, and a recommended sources list.

(3) The SOW is submitted to the Purchasing Officer, which is used in the development of a complete IFB or RFP including contract clauses, special clauses, instructions to prospective vendors, and any requisite technical exhibits or attachments.

(4) The bid document states a specific date and time deadline for proposal receipt and often has mandatory pre-proposal meetings for vendors to attend. This meeting offers the opportunity to ask questions and gives the City a chance to determine whether any changes need to be issued (addenda) to the request. This is also an excellent time to conduct any requisite site visits to familiarize vendors with the project site(s), if applicable.

(5) Informal bids may be posted at City Hall, posted on the City's Web site, E-mailed, mailed or solicited over the phone to prospective bidders. Formal bids shall be posted at City Hall and shall be published at least once in a newspaper of general circulation as required by State law, and, if
applicable, in appropriate trade publications and on the City's Web site. The date of publication shall be at least 10 days before the due date. All formal bids shall be sealed and shall be publicly opened and read at the date, time, and place indicated in the published notice. Alternatively, electronic transmissions including, but not limited to, the issuance of solicitation documents and the receipt of responses thereto are permitted as specified, PCC [1600 – 1601].

(6) Prior to proposal deadlines, an evaluation team will be chosen.

(7) After proposals are received, the committee will be provided the evaluation criteria, conflict of interest documents and tentative interview schedule. The proposals are then evaluated against evaluation criteria, which were stipulated in the bid documents.

(8) Purchasing and the requesting Department then agree on the awarded vendor.

(9) Once approved, a purchase order and/or contract are processed.

(10) After award, the Department monitors the contractor's performance, approves invoices, and notifies Purchasing if any problems are encountered with vendor's performance.

5-104 Developing a Scope of Work

(1) The SOW is the core of any request. A well-written SOW can do more for the success of a contract than any other part of the contracting process. A good SOW is clear, complete, and logical enough to be understood by the vendor and Department. Because it describes the details of performance, it is the yardstick against which the vendor's performance is measured. Enhancing a vendor's ability to read and understand the needs articulated in the IFB/RFP is critical to success. The request must be concise and clear. The structure of the document is used to keep your thoughts on track and to organize a vendor's response. Emphasize points that you feel are especially important. Organize the bid document in numbered sections, and require the vendors to use this same numbering/sectioning format in their responses. This ensures clarity and consistency in the request and in the vendors' responses, and will make the evaluation and selection process easier.

   a. Suggested Content – Introduction, general information, length contractor is needed, task description, constraints on the contractor, contractor personnel requirements and responsibilities (performance), City responsibilities (payment(s)), special conditions, evaluation criteria, and material specifications.

5-105 Evaluation of Proposals

(1) A prerequisite for award is that the vendor must be responsible and must submit a responsive offer.

(2) To be “responsible” means the vendor has the requisite business integrity, as well as financial and organizational capacities, to ensure a good faith performance.
(3) To be “responsive” is to make an offer must conform in all material respects to the RFP. Beyond these two basic criteria, the only method we have of selecting the offer most advantageous to the City is through the proposal evaluation criteria, which is published in the RFP.

(4) Because of the nature of most goods and/or services purchased and the sealed competitive bid procedure, the City must make objective comparative analyses of different vendor’s proposals in justifying our recommendation for award. The recommendation for award must be defensible. This makes the drafting of reasonable and definitive evaluation criteria very important to the IFB/RFP and source selection process.

(5) Some evaluation criteria to consider for inclusion in the RFP are as follows:
   a. Performance record of the contractor;
   b. Safety record;
   c. Relevant experience in providing comparable services on projects of similar size and scope;
   d. Overall quality of proposal; and
   e. Pricing.

(6) The IFB/RFP must contain a cost proposal format that allows the vendors to explicitly identify their charges for the deliverables identified in the project. Deliverables must be well defined so that all vendors can respond to the same deliverables thus allowing the City to make comparative analyses of the vendors’ costs.

5-106 Pre-Proposal Conference

(1) While a pre-proposal conference is not always required, it is highly recommended. If one is conducted, vendors are required to attend, or attendance may be by “invitation and urge to attend”, so that the City can be sure that all vendors receive the same information and we receive constructive feedback about the RFP.

   a. Although a representative from the Purchasing Office leads the conference and answers any contractual questions, the department must be represented to answer any questions about the technical aspects and performance anticipated in the scope of work detailed in the RFP.

   b. During the conference, City employees must not discuss the merits of a vendor’s question, and it must be clear that nothing discussed that materially affects the RFP can be relied upon unless it is documented in a written addendum to the RFP. The City will not be bound by oral discussion surrounding a bid document.
c. If a site visit is needed to familiarize vendors with the project, it is typically conducted following the pre-proposal conference job walk.

5-107 Proposal Opening

(1) Proposal openings are open to the public and are scheduled two to four weeks after the pre-proposal conference. This may vary depending on the complexity of project that is being bid.

(2) Late proposals are marked with the time and date received; however, they are not opened or read and will not be considered.

5-108 Proposal Evaluations

(1) After the Purchasing Officer has reviewed each vendor’s proposal to determine that they are complete, the proposals are then forwarded to the Department and/or committee members for evaluation.

(2) During the period of evaluation and prior to Award, possession of proposals and accompanying information is limited to personnel responsible for participating in the evaluation.

(3) Any communications with vendors must be approved in advance through the Purchasing Officer handling the bid process.

(4) Recommendation for Award must be in written form and must address how each vendor has met or failed to meet the evaluation criteria stated in the RFP. All areas of non-conformity with any terms, conditions, or listed specifications must be clearly stated in the evaluation.

(5) The proposal evaluation scores shall be a part of the final record.

5-109 Negotiation

(1) When all proposals are determined to be non-responsive, all must be rejected and a new RFP shall be issued.

(2) Negotiation is permitted during an informal quote process and when only one bid resulting from an IFB is received during the competitive bid process. The negotiation process is also permitted during the RFP process. When written evaluations support it, the Purchasing Officer may authorize negotiation with each vendor whose proposal can reasonably be expected to be amended to meet the needs of the City.

5-110 Contract Coordination

(1) Contracts will be received or created, reviewed, redlined and placed into a final draft for execution to ensure that the terms and conditions between the City and awarded vendor are accurately and lawfully set forth.

5-111 Monitoring Performance
(1) After award, the project coordinator, who is usually named in the contract document, monitors the vendor’s performance, approves invoices, and notifies the Purchasing Office if any problems are encountered.

(2) Depending on the type of service, the manner in which performance is monitored may involve any number of procedures including regular and unscheduled inspections, complaints brought to management’s attention, and reports or surveys of consumers of the services.

5-112 Dealing with Poor Performance of Vendor/Contractor

(1) The key to rectifying poor performance is keeping good documentation. Each contract contains provisions for dealing with poor performance. While the project coordinator may initially deal with minor issues verbally, a written record is required when the contractor’s performance deteriorates to the point where is becomes necessary to cancel the entire contract or parts of it.

(2) Contact the Purchasing Office for guidance and solutions when you have repeated and uncured issues with the contractor, for whatever reasons.

5-113 Terminating Without Penalty

(1) Under a standard termination clause in most contracts, the City has the option of terminating the contract without penalty for any reason with an advance written notice to the contractor.

(2) Contact the Purchasing Office for guidance and solutions when you have repeated and uncured issues with the contractor, for whatever reasons.

SECTION 6 – PROTESTS AND APPEALS PROCESS

6-100 Policy

(1) Any actual or prospective bidder, proposer or contractor who alleges an error or impropriety in the solicitation or award or a contract may submit a grievance to the appropriate departmental designee and the assigned Purchasing Officer.

6-101 Procedures

(1) All grievances shall be typed under the complainant’s letterhead and submitted in accordance with the provisions stated herein. All grievances shall include at a minimum the following information:
   a. The name, address and telephone number of the complainant;
   b. The signature of the complainant or the complainant’s representative;
   c. The solicitation or contract number;
   d. A detailed statement of the legal and/or factual grounds for the grievance;
e. The form of relief requested.

6-102 Protest of Bid/Proposal Specifications

(1) All protests related to bid or proposal specifications must be submitted to the Purchasing Officer no later than five (5) business days prior to the close of the bid or proposal. Grievances received after five (5) business days will not be considered by the City.

(2) In the event the grievance of specifications is denied and the complainant wishes to continue in the solicitation process, the complainant must submit a bid prior to the close of the solicitation in accordance with the bid/proposal submittal procedures in the bid/proposal.

6-103 Protest and Appeal of Award of Contract – Invitation for Bid (IFB)

(1) Protests related to the award of a contract based on the Invitation for Bid (IFB) or Statement of Qualification (SOQ) process must be submitted no later than five (5) business days after the notice of the proposed contract award is provided by the Purchasing Officer or the departmental Designee.

(2) Protests relating to a proposed contract award which are received after five (5) business days will not be considered by the City.

6-104 Protest and Appeal of Award of Contract – Request for Proposals (RFP)

(1) Immediately upon completion of negotiations with the top-ranked vendor(s), but prior to the filing of a City Council Agenda Report for award of contract, the Purchasing Officer shall send a Notice of Intent to Award of Contract to all participating vendors.

(2) Vendors will have five (5) business days from the date of the notice in which to file a protest or grievance concerning the award of the Contract.

(3) Protests relating to a proposed contract award which are received after the five (5) business days will not be considered by the City.

(4) During the five (5) business day period or proper resolution of a protest or appeal, the department may move forward with the contract award or if necessary, filing the item for approval by the City Council.

(5) Upon expiration of the five (5) business day period or proper resolution of a protest and appeal, the department may move forward with the contract award or if necessary, filing the item for approval by the City Council.

6-105 Protest Process

(1) In the event of a timely protest, the City shall not proceed with the solicitation of award of the contract until the assigned City Purchasing Officer, and in some instances, the City Manager renders a decision on the protest and appeal.
(2) Upon receipt of a timely protest, the Purchasing Officer will within ten (10) business days of the receipt of the protest and appeal, issue a decision in writing which shall state the reasons for the actions taken.

(3) The City may, after providing written justification to be included in the procurement file, make the determination that an immediate award of the contract is necessary to protect the substantial interests of the City. The award of a contract shall in no way compromise the complainant’s right to the protest and appeals procedures outlined herein.

(4) If the complainant disagrees with the decision of the City Purchasing Officer, the complainant may submit a written notice to Administrative Services Director/Deputy City Manager requesting an appeal to the City Manager and City Council.

6-106 Appeal Process

(1) If the complainant wishes to appeal the decision of the Purchasing Officer, the complainant must submit, within three (3) business days from receipt of the decision, a written appeal to the Finance Department, Office of the Administrative Services Director/Deputy City Manager.

(2) Within fifteen (15) business days, the Administrative Services Director/Deputy City Manager will review all materials in connection with the grievance, assess the merits of the protest and provide a written determination that shall contain his or her decision on whether the protest shall be forwarded to the City Manager.

(3) The decision of the Deputy City Manager on whether to allow the appeal to go forward will be final and there shall be no right to any administrative appeals of this decision.

SECTION 7 – HOW TO PURCHASE

7-100 Policy

(1) In compliance with City of Banning Municipal Code and Administrative Regulations, each of the following provisions shall apply:

   a. All purchases, rentals, and contracts shall be made only upon receipt of proper written/authorized requisitions, the required forms of which shall be supplied Citywide by the Purchasing Officer and placed on the Purchasing Portal on the City’s Intranet.

   b. No purchase order shall be issued unless approved budget appropriation is shown according to the budget procedure established by the Administrative Services Director/Purchasing Officer, City Manager, and City Council.

   c. All purchases must be accomplished through the Purchasing Department, regardless of amount – quantity or dollars.
(1) Purchase Requisitions - An approved and signed purchase requisition shall be forwarded to the Purchasing Officer for processing in accordance with this Purchasing Policy and its procedures.

   a. Purchase Requisitions are required for all purchases and used by the departments to request services, order supplies and/or equipment. Vendor information, budget general ledger account number and approval are required to create and issue Purchase Requisitions to vendors/contractors.

   b. Upon receipt of a properly prepared requisition by Purchasing Officer, a requisition meeting all City requirements will normally be processed and completed within 10 business days for routine and 15 business days for complex acquisitions, (excluding purchases requiring formal bid procedures). It is the responsibility of the requisitioning department to adequately plan in advance for their procurement needs and/or requirements.

(2) The cancellation of a departmental requisition shall require department’s notification to Purchasing Officer.

   a. Cancellation by the Department: Cancellation of a requisition by the department should be based on a written cancellation notice. Verbal cancellation may be accepted by Purchasing in order to suspend the purchasing process but should be followed up by written cancellation notice from the department.

   b. Cancellation by Purchasing: Cancellation of a requisition initiated by Purchasing requires the written notification and concurrence of the department.

   c. Cancellation by Purchasing as a “last resort”: A last resort example would be the failure of department to respond to an inquiry for additional information in a timely manner (failure to obtain a response after multiple attempts). Last resort cancellations do not require the department’s concurrence.

7-102 Process
(1) Purchasing Officer/Project Manager are to discuss proposed purchase with Department Head.

(2) Purchasing must receive requisitions that have sufficient funding in a referenced account.

(3) Finance will confirm funding and/or will work with the Department on budgetary transfers, if necessary.

(4) Any delays in processing submitted purchase requisitions due to lack of funding are the Department’s responsibility.

SECTION 8 - SOLICITATION PROCESS
8-100 Definitions
(1) Invitations for Bids (IFB) are competitive bidding documents used for acquiring supplies, services, or equipment for which clear specifications can be written and contract award is made generally to the lowest responsive, responsible bidder.

8-101 Prequalification of Bidders

(1) The City reserves the right to prequalify bidders when deemed to be in its best interest. Prequalification may be done as the first step in a two-step bidding process. Bidders will be prequalified by responding to a Request for Qualification (RFQ), which will include a request for information related to the bidder’s ability to fulfill the contract conditions. Qualification criteria may include financial capacity and stability, company history, capacity to perform, relevant experience, and other criteria relevant to the acquisition being bid.

(2) Prequalification requirements will be reasonable and will be the minimum requirements necessary to carry out the contract.

8-102 Requests for Information

(1) When required by the City and determined to be in its best interest, a general request for information sent to vendors may precede the IFB process. The request for information will be a way of determining appropriate bidders.

8-103 Invitation for Bid (IFB) Document

(1) The IFB shall include a purchase description and all contractual terms and conditions applicable to the procurement. All invitations for bid will include the following:

   a. Adequate Public Notice – Adequate public notice will be given to provide potential bidders sufficient time to prepare and submit bids by the due date specified in the invitation for bid.

      i. General Specifications – Clear, concise specifications must be included in all bid documents. The specification is a description of the physical or functional characteristics of the commodity, equipment, or services desired. Specifications shall be written to encourage maximum and fair competition. A Statement of Desired Purpose will be included in all specifications and only those characteristics essential to the final performance of the product or service will be included. Unless only one brand of commodity or equipment is acceptable due to compatibility or other restrictive requirements, any brand name used in the specifications will be used only for the purpose of establishing descriptive information and will not be used to restrict competitive bidding.

      ii. Proprietary Specification (no substitute) – Proprietary specifications shall be used only when the end user has presented justification that only the named
product will function in the end use required. Proprietary items will be competitively bid whenever there is more than one supplier from whom the product is available.

b. Terms and Conditions – All IFB’s will include terms and conditions, which will become part of the contract. The City Purchasing Officer shall maintain, by type of contract, applicable and appropriate terms and conditions to be included in contracts and shall make these departments for inclusion in the contracts they request.

c. Bid and Performance Surety – When determined to be in the best interest of the City, the City Purchasing Officer may include in the terms and conditions a requirement for a bid and/or payment and performance surety. A bid surety of ten percent (10%) of the total bid will guarantee that a bidder enters into the contract per its bid. A payment and performance surety of a sum being not less than one-hundred percent (100%) of the total contracted amount will guarantee that the bidder will carry out the contract per the specifications and terms and conditions set out by the City. Bidders shall be permitted to provide such surety in the form of a bond, certified or cashier’s check, letter of credit, or certificate of deposit redeemable by the City. Upon award to the successful bidder, all such sureties will be returned to unsuccessful bidders.

d. Indemnification – Where the City may experience financial or physical risk in the performance of a contract by a vendor, the contract terms and conditions will require that the vendor hold the City harmless from such risk.

e. Insurance – The City may also require that the successful bidder submit an insurance certificate prior to contract award. Such certificate will be in an amount adequate to protect the City and will name the City as an additional insured.

f. Criteria for Award – The IFB will include criteria for award. Award will be based on the lowest responsive and responsible bidder.

g. Responsiveness – A bidder’s responsiveness will be judged according to requirement set forth in the invitation to bid. No criteria may be used in the determination of a bidder’s responsiveness that is not set forth in the IFB. In order to determine the lowest responsive bidder, criteria, which affect bid price and may be objectively measured, such as discounts, transportation costs, and life cycle cost, may be considered. Award may not be made to a bidder submitting a higher quality item than the minimum required unless the bidder’s price is also determined to be the lowest in accordance with the criteria established in the Invitation for Bid (IFB).

h. Responsibility – A bidder’s responsibility will be judged according to the bidder’s ability to successfully carry out the proposed contract. Criteria to be used may include financial capacity, experience, facilities, equipment, and integrity. The City may also consider any
of its own past dealings with bidder. The unreasonable failure of a bidder to promptly supply information or documents required for bid review may be grounds for “determination of non-responsibility” made by the City Purchasing Officer.

8-104 Vendor Advisory
(1) All Invitations for Bid (IFB) will include as part of their language the following vendor advisory, “The City of Banning does not require and neither encourages nor discourages the use of lobbyists or other consultants for the purpose of securing business.”

8-105 Pre-Bid Conference
(1) When it is in the City’s best interest, a pre-bid conference may be held. The purpose of the conference will be to further discuss or illustrate the City’s needs and/or to answer any questions which may exist on the part of the bidders. The conference shall be hosted by the City Purchasing Officer. Any changes, deletions, additions or clarification to the bid solicitation shall be issued as an addendum and sent to all prospective proposers. Pre-bid conferences shall not be mandatory for potential bidders unless it is clearly in the City’s best interest.

8-106 Acceptance of Bids
(1) Except as noted below, bids must be received no later than the time specified in the IFB. Bids shall be unconditionally accepted without alteration or correction. Late bids shall not be considered and shall be returned to the bidder unopened unless authorized for acceptance and approval by the City Purchasing Officer with written justification. All bids must be received by someone other than the person who conducted the bid solicitation and must be time and date stamped upon receipt. All bids must be kept in a secure, locked location for access by personnel so authorized by the Department Head. Bids become public information immediately after the closing date and time.

8-107 Waivable Informalities
(1) When considered in the best interest of the City, and when bidder is deemed responsible as defined in the Public Contract Code §1103, certain proposal requirements may be waived by the City Purchasing Officer. Such waivers will be only for minor requirements, which will not provide a material advance for one proposer over another. Examples of waivable informalities are:
   a. Failure of a proposer to submit information due to oversight;
   b. Failure of a proposer to sign or date a bid document; and
   c. Failure of a proposer to submit the requested number of proposal copies; and
(2) Waivable informalities will be considered on a case-by-case basis and will occur only when in the City’s best interest.
(3) [A] bid which substantially conforms to a call for bids may, though it is not strictly responsive, be accepted if the variance cannot have affected the amount of the bid or given a bidder an
advantage or benefit not allowed other bidders or, in other words, if the variance is inconsequential.\(^1\)

(4) The rule of strict compliance with bidding requirements does not preclude the contracting entity from waiving inconsequential deviations.\(^2\) These kinds of errors can be ignored by a public agency, provided they give the bidder no advantage in price or otherwise over other bidders.

8-108 **Correction, Clarification, or Withdrawal of Bids**

(1) Correction, clarification, or withdrawal of erroneous bids before or after awards shall be permitted by the City Purchasing Officer under the following circumstances:

   a. Where there is a mistake evident from examining the bid document, such as an extension of unit pricing or error in addition, the bidder should be permitted to correct the error and the bid remain valid.

   b. Where a bidder alleges a material mistake of fact and there is reasonable proof a mistake was made and the intended bid cannot be ascertained with reasonable certainty, the bidder shall be permitted to withdraw the submitted bid without penalty.

   c. Where a bidder fails to supply information requested in the IFB due to oversight, the bidder should be permitted the opportunity to furnish the information. This shall be permitted so long as the information does not affect the bidders' submitted price, specifications or substantive obligations and does not affect the position of his bid relative to other properly submitted.

(2) Where a bidder committed errors in judgment, the City will not permit withdrawal of the submitted bid without penalty, unless it is determined to be in the best interest of the City.

(3) Nothing in this section is intended to prohibit the City from accepting a voluntary reduction in price or more favorable terms from a successful bidder after award, provided that such is not conditioned on a modification or deletion of any conditions required in the IFB, which would result in a contract less favorable to the City.

8-109 **Tied Bids and Local Preference**

(1) When all other factors are determined to be equal, preference shall be given to firms having a bona-fide place of business within the City of Banning. Local Vendor Purchasing Preference is the practice of procurement from certain suppliers/contractors because they are also local


taxpayers. Local preference is desirable because it stimulates the local economy. All orders/contracts are awarded based on quality, previous performance, ability to meet the contract requirements, availability of service and parts, delivery schedule, and payment terms/discounts and all of the factors particular to the award. When all these factors are equal except price, a preference will be given to local vendors equal to 5% of the quoted price. The City Purchasing Officer has the right to award tie bids by performing a re-solicitation of the tied providers.

8-110 Cancellation of Invitations for Bid and Reservation to Reject All Bids

(1) An IFB may be canceled and any or all bids may be rejected in whole or in part as specified in the solicitation if it is for good cause and in the best interest of the City. The reasons for such cancellation or rejection shall be made part of the contract file. Reasons for cancellation or rejection shall be provided upon request to bidders.

8-111 Public Bid Openings

(1) A public bid opening will be held at a time and place announced in the bid solicitation for purchases exceeding $25,000, subject to the guidelines for each contract type as detailed in this Policy.

   a. The amount of each bid, together with the name of each bidder, shall be recorded and made available for public inspection.

   b. In cases where bids are submitted and tabulated electronically, bid openings will be considered public as long as individual bids are electronically accessible after the bids close.

8-112 Protest, Grievances, Appeals – Invitation for Bid (IFB)

(1) Protest of Bid/Proposal Specifications – All protests and grievances related to bid or proposal specifications must be submitted to the City Purchasing Officer no later than five (5) business days prior to the close of the bid or proposal. Protests received after the five (5) business day deadline will not be considered by the City.

(2) In the event the protest of specifications is denied and the protester wishes to continue in the solicitation process, they must still submit a bid prior to the close of the solicitation in accordance with the bid/proposal submittal procedures provided in the bid/proposal.

(3) Protest of Award of Contract – Protests related to the award of a contract based on the Invitation for Bid (IFB), must be submitted no later than five (5) business days after the notice of the proposed contract award is provided by the City Purchasing Officer.

(4) Protests relating to a proposed contract award which are received after the five (5) business day deadline will not be considered by the City.
SECTION 9 – REQUEST FOR PROPOSAL (RFP)

9-100 Definition

(1) When it is not in the City’s best interest to acquire goods or services through normal competitive bidding, a contract may be solicited using the Request for Proposal (RFP) method. Such a situation may arise for any number of reasons, including, but not limited to:
   a. The City’s requirements are not well defined.
   b. The City is interested in evaluating a range of offers so that it may take advantage of technical innovation and developments in the market place.
   c. Factors such as availability, expertise, and quality override price as criteria for award.

9-101 Requests for Information

(1) When required by the City and determined to be in its best interest, a general Request for Information may be sent to vendors preceding the RFP process. The Request for Information will be a way of determining appropriate proposers.

9-102 Request for Proposal (RFP) Process

(1) Requests for Proposals will be issued with the intent of providing a competitive process from which the City may select a vendor to satisfy its requirements. The RFP will consist of the following:
   a. Adequate Public Notice – Adequate public notice shall be given to provide potential proposers sufficient time to prepare and submit proposals by the due date specified in the RFP.
   b. Requirements Statement – This will be a statement of the City’s objectives in issuing the request. It shall explain the City’s need as clearly as possible. It shall include any special requirements which the City may have in regard to its overall objectives. Included may be requests for special reports, critical timelines, unique items or services to be provided, cost or pricing data required, duration of service, etc.
   c. Qualification Statement – If necessary, the City may include minimum qualification criteria in the RFP. These criteria shall not be used to limit competition but may be used to assure a certain level of expertise and quality of service.
   d. Terms and Conditions – The terms and conditions that are intended to become part of the final contract shall be included in the RFP. Included in the terms and conditions are such items as indemnification, contract termination, payment terms, applicable laws, etc. The City Purchasing Officer shall maintain, by type of contract, applicable and appropriate terms and conditions to be included in contracts and shall make these available to departments for inclusion in the contracts they issue.
e. Instructions – These are items, which related directly to the procedures on how the proposal must be submitted. Included in the instructions are items related to the number of submittals required, format, procedure for information clarification, etc.

f. Bid and Performance Surety – When determined to be in the best interest of the City, the City Purchasing Officer may include in the terms and conditions a requirement for bid and/or performance surety. A bid surety will guarantee that proposers enter into the contract as agreed upon, and a performance surety will guarantee that the proposer will carry out the contract requirements according to specifications and terms and conditions set out by the City. Such sureties, when required, will not be designed to be restrictive, but will only be in an amount necessary to protect the City’s interest. Proposers shall be permitted to provide such surety in the form of a bond, certified or cashier’s check, letter of credit, or certificate of deposit redeemable by the City. Upon execution of the contract with the successful proposer, all such sureties will be returned to the unsuccessful proposers.

g. Indemnification – Where the City may experience financial or physical risk in the performance of a contract by a vendor, the contract terms and conditions will require that the vendor hold the City harmless from such risk.

h. Insurance – The City may also require that the successful proposer submit an insurance certificate prior to contract award. Such certificate will be in an amount adequate to protect the City and will name the City as an additional insured.

i. Liquidated Damages – When determined to be appropriate by the City Purchasing Officer, a provision for liquidated damages may be included in the contract terms and conditions. Liquidated damages may not be a penalty, but must be an approximation of the City’s actual damages.

j. Evaluation Criteria – The RFP will list the criteria which will be used to evaluate submitted proposals. The factors shall relate to the proposer’s ability to satisfy the City’s requirements as specified in the proposal. Evaluation criteria may be weighted by having specific values assigned to each criterion. Evaluation criteria may also be listed in order of importance without including values. Only the factors listed as part of the evaluation criteria may be used to determine the successful proposer. Values/weights for evaluation criteria must be established and submitted to the City Purchasing Officer prior to distribution of the proposals to the evaluation committee. Where cost is a factor in the evaluation criteria, costs analysis must be conducted and recorded in the evaluation process.

9-103 Prequalification of Proposers

(1) The City reserves the right to prequalify proposers when deemed to be in the best interest of the City. Prequalification may be done as the first step in a two-step bidding process. The
process for selection shall be conducted in a competitive manner using the City’s standard solicitation methods, to ensure participation by all interested vendors.

(2) Proposers will be prequalified by responding to a Statement of Qualifications (SOQ) or equivalent solicitation, which will include a request for information related to the proposers’ ability to fulfill the contract terms and conditions.
   a. Qualification criteria may include:
      i. Financial capacity and stability,
      ii. Company history;
      iii. Capacity to perform;
      iv. Relevant experience; and
      v. Any other criteria relevant to the goods and services being sought by the City.

(3) Prequalification requirements will be reasonable and will constitute the minimum requirements to fulfill the terms and conditions of the contract.

9-104 Vendor Advisory

(1) All RFP’s will include as part of their language the following vendor advisory – “The City of Banning does not require and neither encourages nor discourages the use of lobbyists or other consultants for the purpose of securing business.”

9-105 Pre-Proposal Conference

(1) When it is in the City’s best interest, a pre-proposal conference may be held. The purpose of the conference will be to further define or illustrate the City’s needs and/or to answer any questions which may exist on the part of the proposers. The conference shall be hosted by the City Purchasing Officer. Any changes, deletions, additions, or clarification to the RFP shall be issued as an addendum and sent to all prospective proposers. Pre-proposal conferences shall not be mandatory for potential proposers unless it is clearly in the City’s best interest.

9-106 Receipt and Acceptance of Proposals

(1) Proposals are to be received by the date and time specified in the RFP’s. Proposals shall be unconditionally accepted without alteration or correction. All proposals must be received by someone other than the person who conducted the solicitation and must be time and date stamped immediately upon receipt. All proposals must be kept in a secure, locked location for access by only those personnel involved in the proposal evaluation process.

(2) Late proposals may be accepted or rejected depending on the best interest of the City. No proposal will be accepted which is received by the City Purchasing Officer after the due date and time specified in the solicitation.
9-107  Confidentiality

(1) Proposals are not to be marked as confidential or proprietary. Proposals submitted in response to a RFP are subject to public disclosure as permitted by the California Public Records Act. Additionally, all proposals shall become the property of the City. The City reserves the right to make use of any information or ideas in the proposals submitted.

(2) Regardless of any identification otherwise, including marking some or all pages as "confidential" or "proprietary", information in proposals shall become a part of the public record and subject to disclosure without further notice to the proposer.

(3) The City shall not in any way be liable or responsible for the disclosure of any such records.

9-108  Proposer Interviews

(1) After reviewing submitted proposals, the evaluation committee may conduct interviews with responsible proposers who have submitted proposals determined to be acceptable and within competitive range. The purpose of these interviews will be for clarification to assure full understanding of and responsiveness to the solicitation requirements.

   a. Proposers shall be given fair and equal treatment with respect to any opportunity for discussion and revision to proposals.
   b. Discussions with proposers will be recorded either in writing or on tape, and that record will become part of the contract file.
   c. In conducting interviews, there shall be no disclosure of any information derived from proposals submitted by competing proposers.
   d. All members of the evaluation committee must sit in on the interviews with all proposers. If in the best interest of the City, an exception may be made with the approval of the City Purchasing Officer.

9-109  Proposal Questions, Amendments, Extensions, Cancellation

(1) When questions are received from potential offerors that involve clarification or interpretation of the RFP, the Purchasing Officer shall provide a written explanation of the RFP to all potential offerors. If questions are received over the telephone, keep a record of all questions asked and answers given. Advise all potential offerors to put their questions in writing and confirm telephone conversations in writing. Addendums may be requested after submissions and prior to award for the purpose of obtaining best and final offers. Late best and final offers will not be accepted.

9-110  Scope of Work Revisions

(1) If discussions reveal the need to change the original scope of work prior to the bid/proposal due date, an addendum in which details the revised scope will be sent to all those submitting proposals. Upon issuance of an addendum, the vendor is required to acknowledge receipt and
understanding by signing where designated and return the executed copy with submissions of the bid/proposal. If appropriate, the City will issue a revised RFP and begin the solicitation process again. The City Purchasing Officer will be the final authority as to which process will be used.

9-111 Evaluation Scores

(1) Evaluators shall initially score proposals individually. Evaluators' individual scores will be discussed with the entire evaluation panel and combined and tallied. The final scores will be recorded on an individual finalization score sheet. To ensure the integrity of the procurement process and the protected privacy afforded by the Public Records Act, Section 6255, the initial score sheets containing the evaluators notes and comments shall remain in the possession of the individual evaluators, and at no time shall this information become part of the permanent purchasing file or retained as City record.

9-112 One Proposal Received

(1) If only one (1) proposal is received in response to an RFP, the City Purchasing Officer may either recommend award, or, if time permits, re-solicit – whichever is in the City’s best interest.

9-113 Errors in Proposal

(1) Prior to the time and date set for the receipt of proposals, any proposer may withdraw the proposal or correct any errors in their previously submitted proposal.
   a. After the time and date set for the receipt of proposals, proposers may not make any changes to their submitted proposals.
   b. After the receipt of best and final offers, a proposer may be permitted to withdraw its proposal without penalty if evidence is provided of a material error and the fulfillment of the contract by the proposer would create unconscionable hardship or financial loss.

9-114 Award

(1) Award of contract will be made to the responsible proposer whose proposal best meets the City’s requirements as determined by the evaluation committee using the evaluation criteria, which should include proposed cost.

(2) Should the City Purchasing Officer fail to concur with the recommendation submitted by the evaluation committee, the City Purchasing Officer would meet with the evaluation committee members to discuss the reasons for the difference in opinion.
   a. No recommendation shall go forward to the City Council from the City Purchasing Officer unless there is concurrence between the City Purchasing Officer and the evaluation committee.
9-115 Protests, Grievances, and Appeals – Request for Proposals

(1) Any actual or prospective proposer or contractor who alleges a grievance by an error or impropriety in the solicitation or award of a contract may submit a grievance or protest to the appropriate department Purchasing Liaison and the City Purchasing Officer who is administering the RFP.

(2) Release of Proposal Information – Immediately upon completion of negotiations with the top-ranked vendor(s), but prior to the filing of a City Council Agenda Report for award of contract, the City Purchasing Officer shall send a “Notice of Intent to Award” to all participating vendors and a copy to the City Clerk.
   a. Vendors will then have five (5) business days from the date of the notice in which to obtain proposal documents that are available for disclosure, including final score sheets with the names and notes of individual evaluators redacted.
   b. Upon expiration of the five (5) business day period, the City Purchasing Office shall inform the department that the contract may be awarded, or as necessary, submit the item for review and approval by City Council.

9-116 Evaluation Committee

(1) All proposals shall be evaluated by an evaluation committee comprised of three (3) or more members, (preferably two (2) internal staff members and one (1) external professional). Evaluators must have no conflict of interest with the selection process, members of evaluation committees shall be selected based on their qualifications and expertise related to the subject matter.
   a. It is City policy that when practical and appropriate, private citizens with appropriate expertise who are free of any potential conflict of interest will be included on the proposal evaluation committee.
   b. The composition of the selection committee will be determined by the using department or by the City Purchasing Officer for those contracts issued by the Office of Finance, Purchasing Department.
   c. All members of the evaluation committee must sign a form certifying, under penalty of perjury, that they have no conflict of interest with the selection process.
   d. During the proposal evaluation process, evaluators shall not discuss any issues related to the evaluation or selection process with any proposed contractors or their advocates, except in scheduled proposer interviews as discussed below.
(1) Multi-step sealed bidding is a method of soliciting bids, which permits preliminary evaluation based on a proposal’s technical merit and the qualifications of the bidder/proposer and a final evaluation based on price.

(2) Multi-step sealed bidding may be used when it is determined that:
   a. Available specifications or purchase descriptions are not sufficiently complete to permit full competition without technical evaluations and discussions to ensure mutual understanding between each bidder and the City of Banning;
   b. Definite criteria exist for evaluation of technical offers;
   c. More than one technically qualified source is expected to be available; and
   d. A fixed price contract will be used.

10-101 Multi-Step Bidding Process

(1) Phase One:
   a. Multi-step sealed bidding shall be initiated by the issuance of an invitation to submit technical offers. A technical offer is a document that lists and defines all of the technical requirements of the project and explains the approach and plan to address the City’s needs. The invitation to submit offers shall be issued in a manner which provides adequate public notice allowing bidders sufficient time to prepare and submit responses. The invitation to submit technical offers shall contain the following information:
      i. Notice that the procurement shall be conducted in two phases;
      ii. A description of the material or service desired using the best information available to the City;
      iii. A statement that unpriced technical offers only shall be considered in Phase One;
      iv. The requirements for the technical offers, such as drawings and descriptive literature;
      v. The criteria for evaluating technical offers;
      vi. The closing date and time for receipt of technical offers and the location where offers should be delivered or mailed;
      vii. A statement that discussions may be held; and
      viii. A statement that only bids based on technical offers determined to be acceptable in Phase One shall be considered for award.
   b. The City Purchasing Officer may hold a conference with the potential bidders before submission of the technical offers or at any time during the evaluation of unpriced technical offers.
   c. The invitation to submit technical offers may be amended after the submission of the unpriced technical offers. The amendment shall be distributed only to bidders who submitted unpriced technical offers or to amend offers already submitted. If an
amendment materially changes the intent of the procurement, the invitation to submit technical offers shall be canceled or reissued.

d. Unpriced technical offers shall be due at the time and date specified. The contents of unpriced technical offers shall be disclosed only to City personnel having a legitimate interest in them or persons assisting in their evaluation.

e. Late technical offers may be accepted or rejected depending upon the best interest of the City. No technical offer will be accepted which is received later than 24 hours from the original due date. The City Purchasing Officer will have sole discretion in deciding which late technical offers will be accepted or rejected.

f. Unpriced technical offers shall be evaluated solely in accordance with the criteria set forth in the invitation to submit technical offers. Offers shall be determined to be either acceptable for further consideration or unacceptable. A determination that an unpriced technical proposal is unacceptable shall be stated in writing explaining the basis for the determination. A record of the rejection will be retained in the procurement file. Unsuccessful bidders shall be notified in writing by the City Purchasing Officer, and the bidder shall not be afforded the opportunity to amend its technical offer.

g. Discussions may be held with any bidder who submits an acceptable or potentially acceptable technical offer. During discussions, there shall be no disclosure of any information derived from one unpriced technical offer to another bidder. After discussions, the City Purchasing Officer shall establish a closing date for receipt of final technical offers and shall notify, in writing, bidders submitting acceptable or potentially acceptable offers of the closing date. A record will be kept of discussions and made part of the contract file.

h. At any time during Phase One, offers may be withdrawn without penalty.

(2) Phase Two:

a. Upon completion of Phase One, the City Purchasing Officer shall issue an Invitation for Bid (IFB). The invitations for bid shall be issued only to bidders whose technical offers are determined to be acceptable in Phase One.

b. Award will be made to the lowest responsive and responsible bidder.

10-102 Requests for Information

(1) When required by the City and determined to be in its best interest, a general request for information sent to vendors may precede this process. The request for information will be a way of determining appropriate bidders and will be considered as part of the multi-step procurement process.

10-103 Vendor Advisory
(1) All invitations for bid will include as part of their language the following vendor advisory – “The City of Banning does not require and neither encourages nor discourages the use of lobbyists or other consultants for the purpose of securing business.”

10-104 Protest, Grievances, and Appeals – Multi-Step Sealed Bidding

(1) Refer to Section 6 – Protest, Grievances, and Appeals.

SECTION 11 – SOLE SOURCE; PROPRIETARY REQUESTS; INNOVATION

11-100 Policy

(1) It is the policy of the City of Banning to solicit competitive bids and proposals for its procurement requirements. Sole Source procurement shall not be used unless there is clear and convincing evidence that only one source exists to fulfill the City’s requirements.

11-101 Sole Source Justification

(1) Formal justification for Sole Source procurement is required when competitive bid guidelines require pricing from competing proposers. A Sole Source justification form will be prepared by the department and approved by Department Head or designee. The City Purchasing Officer shall retain a copy of this justification as part of the contract file. As part of the Sole Source justification, the requestor shall clearly provide:
   a. A detailed description of the type of contract to be established;
   b. A detailed description of services and/or commodities to be provided by the vendor;
   c. An explanation of why the recommended vendor is the only one capable of providing the required services and/or commodities and include back-up information to support the justification;
   d. The identity of other sources that have been contacted and explain in detail why they cannot fulfill the City’s requirements;
   e. An explanation of how the recommended vendor’s prices or fees compare to the general market and attach quotes for comparable services and supplies, if available (limited competition);
   f. An explanation of how the City would accomplish this particular task if the recommended vendor could not provide the product or service.

(2) Valid Sole Source justification requires strong technological or strong programmatic justifications. Sole Source justifications are not required for purchases where no competitive solicitation is required.

(3) If a contractor develops a particular expertise through demonstrated past performance which has been investigated and determined to be satisfactory in this area of expertise, then such contractor may be awarded a subsequent contract for related work, provided that the Sole Source justification requirements outlined in this Section are satisfied. Such contractor may be designated as an exclusive contractor if the City would be adversely affected by bringing in
another vendor who would be required to meet the expert contractor’s level of expertise and existing knowledge and involvement in a specific project.

(4) Instances when sole source purchasing may be applicable include the following:

a. Property or services can be obtained only from a specific vendor (i.e., materials or equipment; one of a kind items, etc.).

b. Competitive sourcing is precluded because of the existence of patents, copyrights, and special processes, control of raw materials by vendors or similar circumstances.

c. Procurement of water, power or other utility services where it would not be practical or feasible to allow other vendors to provide such services.

d. Procurement of support services in connection with the assembly, installation or servicing of equipment or software of a highly technical or specialized nature.

e. Procurement of parts or components to be used as replacements in support of equipment manufactured by a particular supplier.

f. Procurement involving construction where a contractor is already at work on the site and it would not be practical to engage another contractor.

g. Procurement where only a single supplier in a market is licensed or authorized to service or sell a specific product line.

h. Procurement of compatible additions to existing equipment where a different manufacturer’s equipment would be impractical for the specific need.

i. The supplier or products are specified and required by the funding agency of a grant or Federal/State contract.

11-102 Proprietary Source Requests

(1) Proprietary means confidentially owned and controlled. The term may be used to refer to such items as property, computer software, or intellectual property. The party owning items that are proprietary is known as a sole proprietor and there is no other source available from which to purchase the goods or services.

a. Determining if an item is proprietary rests with the City Purchasing Officer and shall be justified in accordance with the policies and procedures outlined in this Section. In the event an item is justified as proprietary, the City Purchasing Officer shall endeavor to negotiate a price that is most advantageous to the City.

b. Proprietary Specifications – A proprietary item or service is one that must meet particular restrictive specifications but may be available from a number of sources, e.g., "Brand X Computers – no substitutions". A detailed description of the proprietary
specification shall be attached to the requisition for approval. The requisition should contain a brief justification for requesting the proprietary specification.

(2) City Manager – City Manager approval is required for all sole source and proprietary requests in accordance with applicable policy as provided in this Section.

11-103 Emergency Purchase Requests

(1) Sole Source requests may be approved based upon emergency situations in which there is not adequate time for competitive bidding. For additional policies regarding Emergency Requests, refer to Section 13 of this Policy.

11-104 Commodities – Sole Source Requests

(1) Approval by City Council is required prior to the execution of a Sole Source commodity contract costing more than $25,000 annually.

11-105 Service Contracts (includes A&E) – Sole Source Requests

(1) Approval by City Council is required for the following:
   a. Sole Source service contracts that exceed the total annual amount of $25,000,
   b. Sole Source service contracts that exceed a two (2) year consecutive term, regardless of dollar amount. Contracts may not be intentionally split to avoid this Policy,
   c. Renewal of Sole Source service contracts where the annual costs exceeds $25,000.

11-106 City Council Agenda Report

(1) Prior to the submittal of a City Council Agenda Report, all Sole Source justifications requiring City Council approval shall first be reviewed and approved by the Department Head, City Purchasing Officer and City Manager.

(2) City Council Agenda Reports shall clearly state that the procurement is a Sole Source purchase; and
   a. A signed copy of the Sole Source justification, as described above, shall also be attached to the City Council Agenda Report.

11-107 Negotiation

(1) With approvals as required, a contract shall be negotiated with the designated sole source to achieve a contract that is advantageous to the City of Banning.

11-108 Innovative Procurements

(1) Procurement of new or unique technologies, commodities, supplies and services can require an innovative process of procurement be utilized to competitively source for an award. When the City Purchasing Officer determines in writing that it is advantageous to the City to use an innovative competitive procurement process to achieve best value; the City Purchasing Officer shall provide such information in writing to the City Manager, Risk Manager and/or the City
Attorney’s Office for review and approval as to form before issuing a public notice and solicitation.

SECTION 12 – COOPERATIVE PURCHASING

12-100 Definitions

(1) The Cooperative Purchasing Program authorizes departments to purchase products and services from contracts awarded by and through another City, County, State or Federal entity.

12-101 Policy

(1) With the exception of Architectural-Engineering projects, goods and services may be acquired through cooperative contracts that can involve one or more public entities. Such cooperative purchasing may include public procurement contracts, which are made available to other local public entities.

12-102 Responsibility

(1) The City Purchasing Officer is responsible for identifying and executing all cooperative contracts for use by City departments. The City Purchasing Officer may authorize and make use of cooperative agreements, including the pricing, and terms and conditions of the contract of another public entity provided that:

   a. The initial procurement the City is relying upon is consistent with City purchasing rules and requirements.

   b. The vendor holding the contract extends the same pricing, terms, and conditions to the City.

   c. Before deciding whether or not to use the contract of another public entity, City Purchasing Officer will conduct an analysis of the contract to determine that the use of the contract serves the best interest of the City of Banning and that minimum City procurement requirements have been followed with respect to competitive bidding.

   d. The City may also allow local schools and other public entities to take advantage of contracts the City has competitively bid, although the City shall not be a signor on these contracts and shall have no legal liability to either the contracting entities or to third parties as a result of the contracts, including but not limited to:

      i. Issuing their own contract purchase documents,

      ii. Providing for its own acceptance of the terms and pricing of the contract,

      iii. Obtaining required certificates of insurance and bonds, and

      iv. Making any payments due to the vendor.

      v. Limitation of Liability – The contracting entities shall hold the City of Banning harmless from all claims, demand actions, or causes of actions of every kind, known or unknown, resulting directly or indirectly, allegedly arising out of, or in any way connected with the use of City issued cooperative agreements.
12-103 City Requirements

(1) The City Purchasing Officer is required to maintain a list of the cooperative agreements that the City has joined. The list shall report dollar volumes, contracts’ terms, type of contract, expiration or renewal date, and all other pertinent information.

12-104 No Usage Guarantees

(1) While cooperative entities may use these agreements, they City of Banning makes no guarantee of usage.

12-105 City Council Approval

(1) Individual entities and departments utilizing cooperative agreements to purchase goods and services, by and through the City Purchasing Officer, are required to receive City Council approval on individual purchases that exceed the established dollar thresholds for the appropriate contract types as set forth in Section 3 of this Policy.

12-106 Term of Cooperative Contract

(1) The duration of a City cooperative contract will depend upon the City’s needs, prevailing market conditions, contract start-up costs, and the City’s best economic interest.

(2) In no case will a City cooperative contract exceed five (5) years in duration, unless specifically approved by City Council.

(3) City cooperative contracts issued by the City Purchasing Officer that are subordinate to State and/or Federal government contracts and programs may be executed in accordance with the term of the overriding contract and where appropriate, may extend beyond five (5) years, without further approval by City Council.

12-107 Collaborative Purchasing

(1) The City Purchasing Officer has authority to identify and make use of governmental agency cooperative agreements that would be beneficial for City use.
   a. The City Purchasing Officer may pursue both competitive and negotiated cooperative agreements executed by City, County, State and/or Federal governments.
   b. May pursue contracts with other governmental entities in order to obtain cost savings for the City.
   c. Shall make available City cooperative contracts to other governmental entities and pursue opportunities for collaboration in purchasing.

(2) In the event a cooperative agreement identified for use by the City Purchasing was awarded by a method other than a competitive bid, the City Purchasing Officer is required to seek review from the Office of the City Attorney and City Risk Manager, where appropriate, prior to authorizing the use of the cooperative contract.
SECTION 13 – EMERGENCY PURCHASING
13-100 Emergencies

(1) Emergencies are defined as those situations where the safety and/or welfare of City residents or employees is at stake and/or immediate purchasing action is required to prevent serious economic or other hardship to the City. When due to the nature of the emergency, it is not possible or it is impractical to follow competitive bidding requirements, these requirements may be waived, by the City Manager or his designee.

(2) No later than two (2) business days from the emergency request date, a Notice of Emergency Purchase(s) Form by the Department Head should detail the emergency situation. This justification should become a permanent part of the purchasing file.

(3) This Notice of Emergency Purchase(s) will be accompanied by all supporting documentation of the purchase(s) and a summary detailing the emergency situation, which caused the emergency purchase(s). All documents will become a permanent part of the purchasing file.

(4) Emergency purchases shall be subject to the approval of the City Manager, or his designee. City Council approval and/or notification on the Agenda Consent Calendar will be within 30 days of an emergency expenditure that exceeds the City Manager’s approval limit of $25,000.

(5) In many cases, emergency orders may be made using either Online Purchasing or the Procurement Card methods.

(6) For emergency purchases related to an emergency/disaster incident outside of normal business hours, a log of present employee(s), date(s) and hour(s) spent on such incident must accompany the Notice of Emergency Purchase Form.

SECTION 14 – GRANTS AND AGREEMENTS
14-100 Grant and Agreement Regulations

(1) When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by Section §200.326 Contract provisions. All other non-Federal entities, including sub recipients of a state, will follow the procurement provisions contained in the Code of Federal Regulations (2 CFR §200.318 through §200.326) Contract provisions.

(4) When procuring property and services under a state or other local award, see the granting agencies regulations and requirements for specified guidelines.

SECTION 15 – COMPLIANCE MONITORING

15-100 Scope

(1) It shall be the duty of the City Purchasing Officer to review, on an annual basis, the purchasing records and processes of all the City departments. This monitoring will be done on a sample basis. The monitoring of the department purchasing records will be conducted to facilitate the purchasing process and will not be construed to place responsibility for department purchasing on the City Purchasing Officer.

15-101 Specific Duties

(1) The City Purchasing Officer shall select purchasing records from each department on regularly scheduled basis for compliance monitoring. Selected records will span the range of the purchasing process. Records will be monitored using the following performance measures:
   a. Compliance with legal and purchasing processes outlined in this Policy;
   b. Compliance with Council policy set forth in this Policy;
   c. Cost-effectiveness of goods and services acquired;
   d. Timeliness of the purchasing process;
   e. Operational efficiencies of processes used; and
   f. Other measures as determined by the City Purchasing Officer.
ARTICLE 5 – PURCHASING CONTRACTS – GOODS AND/OR SERVICES

SECTION 16 – TYPES OF CONTRACTS

16-100 Definitions

(1) Purchase Orders (PO) are formal contractual documents, and required for all purchases. Once sent to and accepted by a vendor bind the performance of both parties to the transaction. PO's created from requisitions are processed using the City's accounting software. Once a PO has been approved, it is transmitted either by secure electronic means or by email or fax to the vendor.

(2) 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.

a. Blanket purchase orders are used for the acquisition of assorted commodities or services from a known vendor for departments that have predictable but varied program needs. The range of commodities or services covered by the blanket purchase order should be defined as narrowly as possible. Blanket purchase orders may not be used for the acquisition of equipment or appliances.

b. Blanket purchase orders are established with a maximum commitment dollar value. Requests for modification of this amount must be made in writing using the "Request to Increase the Dollar Amount of a Standard or Blanket Purchase Order" Form. Note that requests for increases will be reviewed by Purchasing and by the Chief Finance Officer, Deputy City Manager, or City Manager, as appropriate to ensure that funds are available before approval for the increase will be given.

(3) Commodities include all supplies and equipment, equipment rentals and leases, certain types of software and software licenses costing less than $5,000 per unit, including tax and freight, and those costing $5,000 or more with a useful life expectancy of less than one year. Included in the definition of commodity contracts covered in this Section are the following:

a. **Equipment — Operating Rental/Lease** — These contracts are in essence an extended rental agreement under which the owner of the equipment allows the City to operate or otherwise make use of the equipment in exchange for periodic lease payments. These types of contracts are “Operating Leases” and are characterized by short-term, cancelable terms. The lessor bears the risk of obsolescence and depreciation of the equipment. Operating Leases are generally preferable when the City benefits from such
agreement financially or when consistent product changes occur, such as for minor office equipment, printers, copiers and technology related equipment. Not included in the definition are long-term, “capital,” and/or non-terminable leases.

b. Publications/Newspaper – Contracts to receive periodicals, magazines, trade journals, etc., either in print of electronic/digital subscriptions.

c. Software/License (Retail) – Contracts for proprietary software licenses where the software publisher grants the use of one or more copies of software under the end-user license agreement (EULA), but ownership of those copies remains with the software publisher. These types of purchases typically include terms and conditions, which define the uses of the software and number of users allowed.

d. Subscriptions/Databases – Contracts for access to online information or databases used to enhance or support a City program or project. Contracts of this type involve no onsite visits or work by a contractor and are limited to the digital exchange of information for a predetermined fee.

(4) Professional Services are defined as a service that requires specialized knowledge and training (often through long and intensive academic preparation) or in-depth experience in a particular field or discipline. Professional services are professional, technical, or consultant services predominantly intellectual in character. They include analyzing, evaluating, predicting, planning, or recommending and usually result in the producing of a report or completing a task.

(5) When a proposed procurement consists of both professional and goods and/or other services, determine if it is reasonable to separate the procurement, then decide if the procurement will be made as a professional service or not. A general rule of thumb that should be applied is:

a. If seventy-five percent (75%) or more of the cost of procurement consists of professional services, then procure it as a professional service. If less is a professional service, the procurement should be made by competitive sealed bids. If competitive sealed bidding is impracticable under the circumstances, an exemption will be considered.

16-101 Solicitation Considerations

(1) Solicitations of commodities shall be written so that critical factors associated with the acquisition shall be considered. These facts may include, but are not necessarily limited to the following:

a. Item capabilities – Will it carry out the functions for which it is being acquired?

b. Size, dimensions – Will it fit within the space where it is to be used?

c. Power requirements – Does the City possess the necessary mechanisms for powering the item as it requires?

d. Safety – Does the item meet all local, state, and federal safety requirements?

e. Pollution – Can the item be used without unnecessarily harming the environment? Does it require special air quality management permits?
f. Maintenance – Is there a reasonable on-hand inventory of service or spare parts readily available for use? Are maintenance contracts available?

g. Life Cycle Cost – What is the total cost of ownership including initial acquisition cost, cost of maintenance, cost of required space, residual value, etc.?

h. Liability Insurance – If the item is being installed by a vendor, what is the cost of liability insurance if the vendor does not name the City as an additional insured?

16-102 Term of Contract

(1) The length of all contracts for commodities shall be based upon the City’s best interest. Consideration will be given to product availability, price volatility, and expectation of need. In no case shall a commodity contract exceed five (5) years in duration, unless the contract is temporarily extended for the original contract term by six (6) months to allow time for re-bidding the project.

   a. All contracts will include a provision for cancellation by the City due to lack of liquidity or funds, termination of requirement, or prices which no longer reflect reasonable market prices.
   
   b. Once a contract has expired, it is no longer valid and cannot be used, extended, or renewed through a Change Order or an Amendment.

16-103 Contract Pricing

(1) Contracts will be written so that pricing is controlled and monitored during the contract period. This may be done in several ways, including but not limited to:

   a. A contract may show a firm price for the contract period.
   
   b. A contract may show a percentage increase which will occur during the contract period.
   
   c. A contract’s prices may be tied to an index, such as the Consumer Price Index, during the contract period.

16-104 Vendor Selection

(1) General Information - The Purchasing Officer maintains a list of known prospective suppliers who are available to furnish materials, professional and consultant services, and supplies that can meet the City’s needs. In the case of written formal bids and informal quotations and for most transactions, the list (or record) of those bidders solicited will be in the solicitation file. In most cases, lists are maintained on a computer that enables identification of those suppliers that provide the item or service in question.

(2) New Suppliers - From time to time, purchases are made from suppliers whose names are not on existing bid lists and may never be on a list (because of infrequency of purchases, specialty items, etc.). As frequency increases or the demand requires, a new list may be established by the Purchasing Officer.
(3) Requests to be added to bid lists - Companies may be added to existing or new bid lists based on requests from departments or by the Purchasing Officer. All requests from suppliers may not necessarily result in being added to a bid listing.

(4) Deletions from Bid Lists - Companies may be deleted from bid lists. Reasons for deletion are: out of business, continual poor service, poor quality of goods furnished; default on previous purchase; failure to respond to three consecutive bid or quote invitations, or a supplier's request to be removed for any reason.

(5) Official Record of Bidders - The master supplier number list and bid list is the reference resource used to prepare each record of bidders.

16-105 City of Banning Business Preference

(1) Banning businesses are given a five percent (5%) preference on their quoted price. A Banning business:
   a. Holds a current City of Banning business license;
   b. Submits a bid for goods, services, or construction under the name that appears on the entity's current City of Banning business license; and
   c. Same business has maintained its place of business located within the Banning city limits for the six (6) month period immediately preceding the date of the bid.

16-106 Contract Increases

(1) A contract’s total expenditure may not increase by more than thirty percent (30%) of the original estimate upon which it was bid, unless it is demonstrated to be in the best interest of the City and reflective of good purchasing practices and is approved by City Council.

16-107 Change Orders, Modifications to Professional Services and Capital Projects

(1) Definitions:
   a. Extra Work: Additional work that is unrelated to or significantly adds to the design intent and/or functionality of the original plans and specifications. This work is not necessary to complete the project and is typically requested by staff.
   b. Plan Changes: Work differing from the scope of work which is set forth in the plans and specifications which is necessary to complete the project. The intent of the additional work is to 1) facilitate ongoing work when differing site conditions occur; or 2) conformance with the original design intent; or 3) take advantage of construction cost efficiencies.
   c. Emergency Work: Work that is determined to be beyond the scope of work set forth in the plans and specifications which is necessary and essential to proceed with to avoid project delays or potential additional costs if work is not commenced as soon as practical.
Authorization must come from the owner’s construction management representative and the respective Division Director or his/her designee. Authorization will be reported to the Council at their next regularly scheduled meeting.

(2) All Change Orders for existing contracts for commodities, professional services and construction, entered into by the City, shall be subject to the modification procedures contained in this policy. All Change Order approvals shall be in writing.

a. Department Head approval is authorized for any Change Order up to $5,000, or 1% of the original contract amount, whichever is greater.

b. The City Manager may approve modifications to the plans and specifications and contract documents by means of a Change Order if the cost or estimated costs of such Change Order does not exceed $25,000.00 or 10% of the original contract, whichever is less.

c. Any Change Order in excess of $25,000.00 or 10%, whichever is less, shall require Council approval.

d. The cumulative dollar amount of all change orders for a particular public project may not exceed 25% of the original contract price. Should it become necessary to exceed this limitation, the change shall be by written supplement agreement between the contracting parties.

e. When the Notice of Completion is submitted to the City Council for approval, a summary of total project cost listing all change orders, their purpose and amount, shall be included.

f. The City Manager’s authorized representative, (Resident Engineer or Engineering Manager) may approve plan changes (but not extra work items) up to $10,000.00, within the limits of the City Council approved contingency amount. The representative would authorize work in writing to the contractor. All recommended plan changes must be reviewed and approved by the Deputy City Manager. Contractor would proceed with work and identify percent complete in the next partial payment. Payment would be identified as pending Council approval; however, the amount of work completed would be included in the partial payment total.

(3) Report to the City Council:

a. The City Manager, or his designated representative, shall make a monthly written report to the City Council as to all Change Orders approved by the City Manager during the month, and of all possible future Change Orders that may appear probable prior to the next monthly report. At a minimum, the City Manager shall provide the Council with the name and nature of the contract, all Change Orders approved during that month, the reason for the Change Orders, the cumulative amount of the Change Orders for that contract, and any additional information the Council requests.
(4) Authorization:
   a. The authority contained in this policy binds the City Council, and it is recognized that subsequent Council refusal to ratify a change order would subject the City to damage claims.

16-108 **Multiple Awards**

(1) Awards of commodity contracts may be on an individual basis, a group basis, or on a low total bid basis for the total contract amount, whichever is determined to be in the City's best interest.

16-109 **Secondary Awards**

(1) Awards may be made to secondary, and, in some cases, tertiary vendors when there is a reasonable possibility of supply disruption and having an alternate source is clearly in the City's best interest.
   a. Primary award will go to the lowest responsive and responsible bidder; secondary award will go to the second lowest responsive and responsible bidder, etc.
   b. For any commodity requirement, the primary bidder will always be contacted first and, only if that bidder is unable to provide the required commodity within the time required, will the secondary bidder, etc., be contacted.

16-110 **Multi-Department Contracts and Cooperative Contracts**

(1) Multi-Department Contracts are those which are issued for use by multiple City departments which use like commodities and would benefit from the contract pricing resulting from economies of scale. City departments listed on the contracts may order directly through multi-department contracts. This is accomplished through the City Purchasing Department.

   a. Cooperative Contracts are used by various public agencies and entities to jointly exercise certain powers common to each, including among other things, the right to exercise their power to purchase. (Cal. Gov. Code §6500 through §6512)
   b. Cooperative Contracts are executed by the Office of the City Purchasing Officer and are available for use by City departments. Terms and conditions are established under a cooperative contract and departments may issue individual purchase documents and orders through the cooperative contract, identifying the goods the department wishes to purchase.
   c. The City Purchasing Officer and Department Head or delegated person(s) shall be responsible for the use of all cooperative contracts and all multi-departmental contracts with four (4) or more users for use by City departments. These contracts shall be available for use by all City departments at the discretion of the Department Head. Department Heads must work closely with the City Purchasing Officer.
16-111 Approval of Non-Standard Contract Terms

(1) If Risk Management, City Manager and City Attorney agree in writing that the risk to the City is minimal, approval by City Council is required prior to the execution of any commodity contract that includes non-standard terms in the following contract provisions:
   a. Indemnification, and
   b. Limitation of liability provisions.

16-112 Opportunity Buy

(1) An “Opportunity Buy” is a situation where necessary goods are for sale at significantly reduced rates from what is normally offered in the general market or where an alternative product to the one being bid represents a minimum cost savings of 20% to the City. In the event this situation arises, the Department Head or authorized designee shall prepare a written justification in support of the prompt action taken that shall become part of the permanent purchasing file. The justification shall include:
   a. A detailed description of the commodity to be provided by the vendor and an explanation of the cost savings achieved.
   b. Why the recommended vendor is the only one capable of providing the required commodities with back-up information included to support the justification.
   c. Comparison of the recommended vendor’s prices or fees to the general market with price and attached quotes for comparable items provided, if available.

(2) City Council Approval – Opportunity Buy
   a. In the event that the “opportunity buy” exceeds $25,000, approval by City Council is required prior to the purchase.

16-113 Service Contracts

(1) Service contracts encompass all contracts for services either with or without materials. Included in the definition of service contracts covered in this Section are the following:
   a. Professional Services – Services provided by licensed and/or technically trained professionals, including such services as, data processing, accounting, legal, medical, appraisal, consulting, adjusting, risk management, insurance, engineering, architectural, selling agents and brokerages, auditing, information technology related services that may or may not include software, and software license or other types of end-user agreements.
   b. Facilities and Equipment Services – Services that provide maintenance to existing facilities or equipment, including such services as janitorial and grounds maintenance, equipment maintenance and repair, software maintenance, etc.
   c. Personnel or Employee-related Services – Services that provide benefit or assistance directly to employees, including such services as vending machines, security, etc.
d. Consultant Service Contracts – Services that provide an advisory nature which include a recommended course of action or personal expertise, and have an end product which is basically a transmittal of information. Consultant service contracts are issued in order to obtain professional or technical advice or expertise that will supplement departmental expertise or advice or where an independent opinion or audit is required. All consultant service contracts shall contain a provision that prohibits “follow-on” projects that prevent the consultant from performing work related to any recommendations being formulated as a result of the consulting work.

e. Revenue Generating Agreements (non-real estate) – An agreement for contractor-provided services on City premises in which the City does not pay a fee, but instead receives a portion of the revenues that are generated from the services.

f. Capital Leases (non-real estate) – A long-term lease that transfers to the lessee most rights and obligations concerning the asset leased, and usually transfers ownership at the end of the lease.

(2) Not included in the definition of service contracts for City procurement purposes are contracts for public works, architects and engineers, real property contracts, and human services.

16-114 Architect-Engineering Service Contracts

(1) Architect-Engineer (A&E) service contracts or agreements include, but are not limited to: architectural, engineering, environmental, and land surveying services, as well as incidental services that members of these professions may logically or justifiably perform. Environmental services are further defined to mean those services performed in connection with project development and permit processing that facilitates compliance with state and federal environmental laws.

(2) Services which are considered A&E services may include but are not limited to: investigations, developing designs, plans and specifications, reports, cost estimates, show drawings, review, supervision of construction, land surveying, environmental documentation required by the California Environmental Quality Act, Public Resources Code §21000, et seq. (CEQA), and other regulatory permits.

(3) A&E services may also include other related services, where needed, in support of an A&E project, including but not limited to, archeology, geological and soils engineering, agronomy, limnology, biology, paleontology, construction claims consultants, material testing and inspection, real estate appraisal and other property acquisition services.

(4) If the service provided is a specialized service and performed by private architectural, landscape, engineering, environmental, land surveying or construction project management, the contract or agreement shall meet the requirements set forth in this Section.

(5) Limits On Architect-Engineer Contracts:
   a. A&E contracts shall not be awarded to the same A&E (or affiliated firms) who provided design services in the situations listed below:
i. A&E who prepared plans and specifications may not bid on the project as a construction contractor except as otherwise provided by state law (Design and Build Exceptions);

ii. Any A&E representing a private sector client with an interest in a City project may not also represent the City on the same project. Exceptions to this may be made if the Department Head discloses the relationship to the City Council with a determination that using that particular A&E will provide a substantial benefit to the City;

iii. It is prohibited to use cooperative contracts, to procure A&E Services; and

iv. The above list is not exclusive. Other situations where conflicts might exist should also be considered.

(6) Basis for Selection of Architects and Engineers:
   a. California Government Code §4526 reads in pertinent part, “Notwithstanding any other provision of law, selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.”
   b. Selection of Architects and Engineers for On-Call A&E Services:
      i. Definition – For purposes of this Section, “on-call” A&E Services are for projects that are routine in nature, and encompass a predefined category of work as defined by the executing department.
   c. Each department shall follow these procedures for selection of A&E firms to perform on-call A&E Services:
      i. Architect-engineer firms shall file applications with individual departments delineating their qualifications, including experience, expertise for project magnitude in which they are capable of handling. A&E firms shall identify the on-call A&E services they are qualified to provide in accordance with departments’ predefined categories;
      ii. Departments shall maintain a list of qualified architects-engineers from the applications received, in accordance with this Section;
      iii. Departments shall then turn over the list of qualified architects-engineers to the City Purchasing Officer.
   d. Statements of qualifications will be ranked by the City staff using the following criteria:
      i. Technical experience; Key personnel; Availability of adequate staff; and; other criteria determined necessary for and appropriate to the project.
      ii. After evaluating the qualifications using the established criteria, the department shall submit a ranked slate of the most qualified A&E firms to the City Council
for selection and approval. City Council-approved slates for specific categories of services shall be valid for a period of no more than three (3) years, unless otherwise directed by City Council.

e. Departments will then select from City Council-approved slates of A&E firms for on-call A&E services and negotiate contracts or agreements as needed for final approval by the City Manager, Risk Manager, and the City Purchasing Officer.

f. Once an A&E on-call contract or agreement has been approved and executed, the departments may utilize the on-call A&E without additional City Council approval for as needed tasks, which shall be identified in writing in a subordinate agreement (or “Task Order”) with the A&E, with final approval by the City Purchasing Officer.

g. While remaining consistent with qualification-based selection, an effort shall be made to produce an equitable distribution of contracts among the best-qualified firms and to provide fair opportunities to small businesses.

(7) Selection of Architects and Engineers for Project Specific A&E Services

a. Each department must issue, to the City Purchasing Officer, a Request for Proposal for all architect-engineer projects valued annually at over $25,000 or more. The process shall consist of evaluation of written proposals and oral presentations. Evaluation criteria shall be as follows:

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<tr>
<th>Written Proposals</th>
<th>Oral Presentations (if needed)</th>
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<tr>
<td>Technical expertise</td>
<td>Presentation</td>
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<tr>
<td>Key personnel</td>
<td>Technical content</td>
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<tr>
<td>Approach/understanding of project</td>
<td>Project manager</td>
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<td>Control of cost and schedules</td>
<td>Key team members</td>
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<td>References (written and verbal)</td>
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<td>Insurance and good standing entity</td>
<td>Project schedule</td>
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<td>Other – reserved</td>
<td>Other – reserved</td>
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(8) Evaluation shall be based on a scoring system from 0-5, with 0 being unacceptable and 5 being excellent. Weighting of evaluation criteria shall jointly be determined by the Department and the City Purchasing Officer.

(9) After evaluating the proposals using the above criteria, the City Purchasing Officer shall submit, or the City Purchasing Officer may delegate the Department to submit, a ranked slate of the most qualified A&E firms to City Council for selection and approval. Any member of City Council who recommends the selection of an A&E provider other than the top-ranked providers shall publicly disclose his or her reason for recommendation.

16-115 Public Works Contracts

(1) Notwithstanding any provision of this chapter to the contrary, all public projects contracts for more than five thousand dollars ($5,000), must be contracted for and let by the procedures set forth in Division 2, Part 3, Chapter 1, Article 1 of the Public Contract Code (commencing at Sections 20160). This includes the purchase of supplies or materials for any such project, including maintenance or repair of streets or sewers.

(2) As permissible by the Public Contract Code, the City will consider Design-Build as an alternate method of procurement for public projects.

(3) The definition of a public project shall be the same definitions that are included in the Public Contract Code §20161, and for payment of prevailing wages, Labor Code §1720.

(4) Bonds: A bid bond in a value not less than 10% of the total bid price shall be required on all projects of more than $5,000.

(5) Award of all public projects under up to $25,000 may be approved by the City Manager.

(6) Award of all public projects over $25,000 must be approved by City Council.
ARTICLE 6 – MISCELLANEOUS PROCUREMENT PROCEDURES; GUIDELINES AND REFERENCES

SECTION 17 - RECEIVING PROCESS

17-100 Product Delivery

(1) Delivery of requested products or services marks a transition in the purchase-to-pay process from a purchasing activity to a payables activity. All purchases must be "received" to release payment to the vendor. The "receiving" staff must determine if the products or services received are acceptable and conform to the City’s requirements. The entire receiving process consists of the following:

17-101 Signing for Deliveries

(1) Whenever possible, the person receiving the product should sign the receiving documents provided by the vendor or shipping company. The person receiving the delivery should preferably inspect the delivery before signing the delivery receipt and should also initial the packing list. Then, submit the packing list to the appropriate person for financial reconciliation.

17-102 Refusing Delivery

(1) Whenever possible, departments should refuse to accept shipments if they are unable to confirm that the order was placed by their department, if the packaging appears sufficiently damaged to warrant concern or does not meet the required specification.

17-103 Record Retention

(1) During the receiving process, the department takes physical possession and legal ownership of the shipment. Therefore, it is important for the vendor to provide the department with a packing list for all shipments delivered to the department. If the vendor fails to provide the packing list, the department should contact the vendor to request that copies be sent for its files. The need for saving receiving documents is particularly important when accepting any partial or staggered deliveries over a period of time.

17-104 Inspecting the Shipment

(1) Persons receiving shipments should, upon acknowledging receipt of an order, conduct an inspection to verify the following minimum conditions:
   a. The products conform to the PO/BPO requirements and other relevant documents (for example: correct model number, description, size, type, color, ratings, etc.)
   b. The quantity ordered against the quantity shipped or delivered.
c. There is no damage or breakage

d. The unit of measurement count is correct (e.g., if the unit of measurement on the purchase order is one dozen, there should be 12 in the package).

e. Delivery documentation (packing list, certifications, etc.) is acceptable

f. Products are operable or functional.

17-105 Matching the Packing List to Purchase Order

(1) During the inspection process, the department should compare the vendor’s packing list to the purchase order to determine if there are any discrepancies between the documents. At a minimum, the following information should be the same on both the packing list and purchase order:

a. PO number

b. Item or Manufacturer’s part number

c. Quantity and unit of measure

d. Description of the products

(2) Once the invoice has been entered by the department representative, the department should determine if the invoice charges are correct. In case of any invoice discrepancies, the Accounting department should be notified to place a "hold" on the invoice until further notified.

17-106 Product Substitutions and Over-Shipments

(1) Vendors are not allowed to substitute products or deliver more than the amount ordered without prior approval from either the department representative of Purchasing Officer.

17-107 Failed Inspections

(1) Departments are advised to notify in writing any failed inspection results discovered during inspection and provide the results to the vendor and the Accounting department for appropriate action. When receiving items from freight companies, the number of packages received should match exactly the number on the freight bill. If not, the department should require the driver to write the number of packages received on the bill before signing. Inspect all packages for damage to the outside container. Any visual damage should also be noted on the freight bill before signing.

(2) In cases of concealed damage, a report should be made by the department immediately to the delivering carrier. The report should include the following information: Freight Bill Number, PO/BPO number, the date of delivery, supplier, and the extent of damage or shortage. In
event of damage, it is essential that the department retain all the original shipping cartons for inspection by a claims adjuster.

17-108 Testing

(1) Testing may be performed by the department to ensure that the products substantially conform to the specifications documented in the PO/BPO, contract, or vendor's proposal. Acceptance testing is highly recommended for complex, expensive capital equipment prior to approving final payments to the vendor.

(2) An acceptance testing period may occur as a single instance or over a period of time, but should be performed as quickly as possible following the receipt of the product.

(3) For major capital equipment purchases, specific acceptance testing criteria should be developed and incorporated into the contract. Departments must perform the testing according to the criteria established in the agreement for the results to be considered valid and legally enforceable in the event the product is rejected and payments are to be refunded.

17-109 Acceptance Determining

(1) Departments are required to contact the vendor in a timely manner when rejecting products that are over-shipments, defective or for any other non-conformance. Failure to notify the vendor in a timely manner will mean the shipment will be considered “accepted.”

17-110 Product Returns for Credit/Refund

(1) When a vendor has shipped items as specified on a purchase order, they have legally complied with their part of the contract and are under no obligation to accept returned items for credit or refund.

(2) When a product is damaged, or is rejected for failing acceptance testing or is not as specified on the PO/BPO, the department should request a Return Authorization Number from the vendor. The shipping label on the returned package must be marked with the Return Authorization Number. Other identifying information should be placed on the outside of the returned package for easy identification.

17-111 Financial Information

(1) The Finance department is responsible for establishing general ledger account numbers, which represent the source of funds (department or function). Account numbers represent the type of revenue or expense to be transacted to each department.

(2) Each department is assigned a general ledger account number(s) in order to detail and control expenditure activity for their area(s) of responsibility. All Purchase Requisitions
must carry the complete account number to be charged in order that required approvals may be obtained prior to its receipt and for proper encumbrance and payment once the process is complete.

17-112 Payment Terms

(1) The City’s standard payment terms for purchase orders and demand checks are Net 30 Days from the date of the invoice.

(2) The City’s payment terms are determined by the City Manager and Administrative Services Director. Departments do not have authority to change or otherwise accept different payment terms from vendors and contractors. Non-standard payment terms must be reviewed and approved by City Manager prior to entering into any contracts.

17-113 Invoice Approval

(1) Invoices must be approved by the authorizing individual, or his/her designee, for the items invoiced. The authorization requires validation of the correct general ledger account charged for the payment.

(2) Payments must be issues from original invoice, and not a copy or statement. If a copy is all that is provided to accounts payable, it must be stamped “ONLY COPY AVAILABLE” with a reason as to why it is the only copy.

(3) The Accounting Department encumbers all proper purchase orders into the City’s Accounts Payable System for matching and payment of invoices. Vendors and contractors are directed to send their invoices either specifically by email or mail to the City’s mailing address.

(4) Invoices are entered into the Accounts Payable system upon approval. If the purchase order and corresponding invoice systematically match within predefined tolerances, the invoice will be scheduled for payment in accordance with the payment terms.

(5) Should there be a problem regarding the item or services received under the purchase order, the department is to be notified by the Accounting department to withhold payment until the problem is reconciled.

(6) Since the credit standing of the City is dependent upon its ability to pay its obligations on time, communications between the department and the Accounting Department must be done in a timely manner.

17-114 Payment Methods

(1) The purchase of products and services is accomplished through a variety of different procedures. These procedures are designed to address the great differences in complexity, value, risk and
transaction volumes associated with City purchases. The list below describes the current payment methods:

a. Petty Cash – a fund which supports petty cash disbursements for authorized cash advances and for limited cash reimbursement.

b. City Check – a draft drawn on a City bank account for the procurement of goods and services.

c. Electronic Funds Transfer (EFT) Payments – an electronic payment made directly to a designated vendor account.

d. Procurement Cards (i.e.: Visa, Staples, Costco) - for single transactions in accordance with the individual procurement card for the purchase of discretionary transactions with local retailers, internet companies and travel related services.

SECTION 18 – SURPLUS CITY PROPERTY

18-100 Definition

(1) Surplus City Property is defined as all tangible supplies, materials or equipment to which the City acquired title by means of purchase, donation, grant, or any other lawful means of acquisition that is determined to no longer be used or required by the department in possession.

18-101 Policy

(1) City of Banning, Administrative Policy, requires that Surplus City Property to be reported to the Finance Department, Purchasing Officer, who may then transfer such an item to a surplus pool to be maintained under the supervision of the City Purchasing Officer for reassignment and reuse by City departments.

18-102 Disposal of Surplus City Property

(1) The method used by departments to dispose of Surplus City Property must be approved and coordinated with the City Purchasing Officer. Internal reuse of Surplus City Property by City departments is the preferred method of disposal.

(2) Disposition Methods – Surplus City Property shall be disposed of in one of the following preferred methods:

a. Internal transfer to a claiming department;

b. Sale by City Purchasing Officer;

c. Documented donation of technology and related equipment with a fair market value less than $5,000 per lot to the Department of Education and non-profit organizations;

d. Auction (material value);

f. Recycling; and

f. Waste.
ADMINISTRATIVE PROCEDURES
City of Banning

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<th>APPROVAL DATE</th>
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<td>06/27/17</td>
<td>PROCUREMENT POLICIES &amp; PROCEDURES</td>
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18-103 Receipt for Fair Market Value
(1) In the event that property is not transferred within the City and must be disposed of in another manner, every attempt will be made to receive fair market value for the property.

18-104 City Council Approval
(1) Approval from City Council is required prior to the donation of any Surplus City Property with an estimated market value that exceeds Five Thousand Dollars ($5,000 USD).

SECTION 19 – COMPUTER PURCHASES
19-100 Computer Purchases
(1) For initial personal computer purchases, the following items will be considered as one unit: System unit including disk-drive(s), emulation board, internal/external modems, memory expansion board, co-processor, expansion chassis, cables, additional chips, keyboard monitor and operating system software.

(2) If the following items are acquired at an individual cost of $5,000 or more after the initial purchase of a computer, they will be considered ENHANCEMENTS and coded as equipment:
   a. additional disk drives (including replacements if they provide enhancement)
   b. emulation board
   c. internal/external modems
   d. memory expansion board
   e. co-processor
   f. expansion chassis
   g. keyboard
   h. monitor

(3) Software will be considered Capital Equipment if it is customized for the City and acquired at a cost of $5,000 or more per unit and has a useful life of more than 3 years.

SECTION 20 – LEASING
20-100 Lease / Lease Purchase / Rental Orders (Equipment)
(1) A lease is an agreement conveying the right to use property for a specified time and for a specific amount of money. In a true lease, the property being used remains the sole property of the lessor (vendor), and the lessee (City) builds no equity in the leased property. A lease/purchase agreement allows the lessee to build equity and purchase the property from the lessor for a
nominal amount at the completion of the lease. The term of a lease is fixed in duration and generally not cancelable. A rental agreement is similar to a lease in that the user does not build ownership in the asset. A rental agreement differs from a lease in the length of the agreement (usually less than one year) and the agreement can usually be cancelled by the renter prior to the end of the agreement without penalty.

SECTION 21 – PURCHASING CARDS
21-100 Definition

(1) With the approval of the City Council and under the direction of the City Manager, the City Purchasing Officer shall oversee and administer the City’s Purchasing Card Program. Purchasing Cards are City credit cards issued to City of Banning employees authorized by Department Heads to make purchases on behalf of the department in accordance with Purchasing Card Program Policy and Procedures.

21-101 Authorized Use

(1) The Purchasing Card may be used to purchase goods and services for City use only. Using the Card for personal purchases is strictly prohibited. Any employee who willingly uses the Card for personal purchases shall be subject to:
   a. Reimbursing the City for all costs associated with personal purchases;
   b. Having the card immediately revoked;
   c. Possible referral to the City Attorney for collection and prosecution; and
   d. Further disciplinary action and possible termination of employment.

21-102 Responsibilities

(1) Program Administrator – Each department shall have a Purchasing Card Program Administrator. The Program Administrator is responsible for all aspects of their department’s participation in the Purchasing Card Program. The Program Administrator works closely with the City Purchasing Officer or designee to answer questions, perform contract administration, account application coordination, card issuance and cancellation, ensure timely monthly submission of receipts and purchase documentation, and administrative training.
(2) Authorized Signer - Department employee authorized to request new cards, modifications to card limits, cancel cards, and assign Approving Officials.
(3) Billing Officials – Department employees responsible for managing the billing, payment and approval processes for department purchases. Billing Officials cannot also be cardholders.
(4) Approving Officials – Department employees authorized to approve payment for purchases made by department cardholders.
(5) Cardholders – City of Banning employees authorized to make Purchasing Card purchases on behalf of their assigned department in accordance with established program policy and procedures and applicable procurement policies and procedures.
21-103 Controls

(1) In addition to the other internal controls and procedures as detailed in the Purchasing Card Program Policies and Procedures, use of City-issued Purchasing Cards are subject to the following controls:
   a. 30-Day Purchase Limit per Card – Each card is established with a monthly, not-to-exceed amount predetermined by the Cardholder’s department and approved by the City Purchasing Officer and delegated Agents.
   b. Single Purchase Limit per Card – Each card is established with a single transaction limit to ensure adherence to competitive billing requirements.
   c. Merchant Code Blocking – Every City-issued Purchasing Card is blocked to prohibit the Cardholder from making purchases from certain types of vendors.
   d. Department Heads may impose additional restrictions on goods or services that may not be purchased using the Purchasing Card.

21-104 Adherence to Purchasing Policy

(1) City purchasing policies, as delineated in this Manual, may not be circumvented when using the Purchasing Card. In accordance with City policies and procedures outlined herein, where appropriate, Cardholders are required to obtain the appropriate number of price quotes before making purchases and must document the quotes received with the transaction information and invoice.

SECTION 22 – PETTY CASH DISBURSEMENTS & REPLENISHMENT

22-100 Petty Cash Fund

(1) The petty cash fund in the amount not-to-exceed $250; is established to make low value and urgent need purchases. A custodian of the fund, who is directly responsible for the safekeeping and disbursement of cash, must be appointed by the Administrative Services Director. The original check written to establish the fund, and checks written to replenish it, are made payable to the custodian of the fund. Written instructions detailing the procedures that must be followed in using petty cash funds should be provided to the custodian.

(2) Petty Cash Disbursements – All disbursements must be authorized by the designated authority and indicated by approval signature. Expenses paid from a petty cash fund can only be made for the purpose(s) for which the fund was authorized and must be supported by receipts, which should contain the following information:
   a. Date of purchase or payment;
   b. Name of vendor or other payee;
   c. Evidence that a payment was made, i.e., a cash register receipt or an invoice which the indicates that it was "Paid";
   d. Amount paid;
### ADMINISTRATIVE PROCEDURES

**City of Banning**

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e. Description of the goods purchased or of the services provided and
f. Signature indicating receipt of purchases or services.

### 22-101 Reimbursement of Funds

1. Reimbursements made to a fund custodian for petty cash expenditures are based on a Check Request which must be supported by purchase receipts.

2. Such requests must be approved for payment by someone with signature authority who is neither the petty cash fund custodian nor an employee who reports to the fund custodian.

3. Reimbursement should be requested as needed, but the fund should always be reimbursed by the end of the fiscal year or when it falls below 60% of the total fund.

### SECTION 23 — TRAVEL REIMBURSEMENT

**23-100 Travel Reimbursement**

1. Travel reimbursement shall only be paid to employees of the City and must be submitted in the fiscal year incurred or within 30 days following fiscal year end.

2. Travel authorization is required prior to business-related events (Conference, training, meeting, etc.).

3. City funds shall be used only for conducting City business, or as may otherwise be permitted in this policy.

4. Spouses may accompany an employee on a City business trip, provided that all expenses are borne solely by the official or staff member.

5. Staff shall use the annual budget process to propose attendance at conferences/meetings during the fiscal year, whether in-state or out-of-state. Exceptions may be approved by the City Manager.

6. Mileage reimbursement—When a private automobile is used for travel, reimbursement for mileage shall be at the rate paid currently by the IRS per mile up to a maximum equal to the lowest reasonable round trip airfare to the conference/meeting location. Internal Revenue Service (IRS) Per Diem Rate is the rate of reimbursement and can be found at www.irs.gov. The IRS Per Diem Rate is updated and effective on January 1 of each calendar year.

7. For staff members receiving a monthly automobile allowance, mileage for trips exceeding sixty (60) miles one-way shall be reimbursable at the rate of current IRS rate.

8. If cost of standard airline ticket combined with airline parking is >$200 less expensive than mileage, the lesser amount shall be reimbursed.

**23-101 Meal Reimbursement**

1. Itemized original receipts are required for reimbursement.
(1) Name of attendees are required (employees, consultants, vendor, etc.) when paying for.

(1) When out-of-town City business requires an employee to leave home an hour earlier than normal worktime, the breakfast meal is reimbursable. When an employee is required to work out-of-town, or is still in transit three hours past a normally scheduled workday, the evening meal is reimbursable. Additional expenses in excess of said approved events will be borne solely by the staff member.

(1) The applicable employee unit’s Memorandum of Understanding (MOU) Per-Diem Rates shall be the maximum amount reimbursed when a receipt is not available. If there is no applicable MOU, the United States General Services Administration (GSA) Per-Diem Rates may be used when a receipt is lost or not available. The GSA Per-Diem Rate can be found at www.gsa.gov and is specific to location.

Example: 2016 Palm Springs Per-Diem Rate (Riverside County) is $64 per day or $15 breakfast, $16 lunch, $28 dinner, & $5 incidental expenses.

(1) Other rates (POST) are subject to review and approval of the Administrative Services Director per occurrence.

23-102 Miscellaneous

(0) Lodging

— Itemized invoice that indicates “Paid” is required for reimbursement.
— Reservations for hotel/motel rooms should be made in advance to ensure availability and lowest rates. In choosing lodging, both price, convenience and propriety should be considered. For example, the cost of lodging at the conference/meeting site may be less expensive when the cost of a necessary car rental, parking or other considerations are factored in. Employees shall always request the government rate. When a deposit is necessary to guarantee a room, an advance request should be processed through the Finance Department. The Finance Department will pay the hotel/motel directly.

(0) Public Transportation

— Airfare—original receipt must show name, date, destination, class and amount paid. Coach or economy rates only.
— Taxi, Bart, etc.—original receipt and/or proof of payment (copy of credit card statement, etc.).
## ADMINISTRATIVE PROCEDURES

### City of Banning

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### POLICY TITLE

**EFFECTIVE DATE**

| 02/26/2019 |

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1. **Rental Vehicle**
   - Original receipt must show location (city/state) of Rental Company, name of employee, dates, description of services and amount paid.

2. **Gasoline for rental vehicles**
   - Must provide original receipt, accompanied by a copy of rental vehicle receipt.

3. **Tips**
   - Must not exceed 15% of authorized purchase.

4. **Miscellaneous**
   - Unauthorized Purchases:
     - Alcohol
     - Laundry services
     - Excess of three meals per day
     - Expenses for non-employees
     - Gasoline for any vehicle, (except authorized rental vehicle with original receipt accompanied by a copy of rental vehicle receipt).

5. **Reimbursement/Cash Advance**
   - In order to receive reimbursement for expenses incurred while traveling on behalf of the City, a Travel Authority and Payment/Advance Request form (available from the Finance Department) must be completed and submitted to the Finance Department.

   - The Travel Authority and Payment/Advance Request form shall be used for pre-authorization of staff travel and requests for cash advances. This form must be signed by the Department Head prior to being submitted to the Finance Department. Cash advances must be requested at least two weeks in advance of the day funds are required, or there shall be no obligation on the part of the City for an advance. These funds will be distributed to the requester no more than seven (7) days prior to the travel date. Cash advances are limited to 100% of the reasonably expected cash expenses listed on the Travel Authority and Payment/Advance Request form.

   - Individuals receiving an advance must submit a Claim for Reimbursement and Expense form to the Finance Department within 7 working days of returning from the travel event. No further advances will be given to individuals not adhering to this reporting guideline.

   - The City Manager’s travel advances and reimbursement request shall be reviewed and approved by the Administrative Services Director.
COMMERCIAL LIABILITY INSURANCE

23-100 Definitions

(1) Commercial General Liability - A broad form of liability insurance usually covering business organizations to protect them against liability claims arising out of their operations. This is a standard insurance requirement with fundamental coverage for bodily injury, property damage, products & completed operations, and personal injury arising from the contractor's activities. CGL policies typically exclude liabilities arising out of professional services and some other risks such as the use of automobiles.

(2) Commercial Automobile Liability - Important for any work or service involving the use of motor vehicles, and a legal requirement for all vehicle owners. If contractors use an automobile in any phase of the work performed for the City, evidence of automobile liability insurance is required. In some cases, consulting firms will not own automobiles and therefore may not purchase automobile liability coverage. However, the firm should obtain coverage for their non-owned and hired automobile exposure. This coverage protects them for claims arising from use of personal or rented vehicles by its principals or employees.

(3) Workers Compensation Liability - All employers must provide this insurance or be registered as a Self-Insured entity with the State. This is not required for sole proprietors or companies that have no employees. Some contractors may be exempt from purchasing workers’ compensation insurance. If the City contracts with a sole proprietor of a business, the workers’ compensation insurance requirement may be waived by completing the appropriate waiver form.

(4) Professional Liability or Errors and Omissions Liability - Professional liability insurance protects against losses that occur when a "professional" fails to practice his or her art to the usual and customary standards of that profession. There can be risks to the City associated with errors (or allegations of errors) in the professional’s work product or judgment. The types of losses that can occur under such circumstances are often excluded under general liability policies. As an example, if a contractor is merely following blueprints in constructing a building, it would involve only physical work and a general liability policy will suffice. However, if the contractor is a "design-build" firm, or decides that it knows of a better way to construct part of the building, and it alters the blueprints accordingly, then it has crossed the line over into providing "professional" service and would then need Professional Liability coverage to cover a subsequent loss.

(5) Installation Floater Liability - In construction contracts, if the project scope includes construction work other than vertical construction or renovation/addition to a previously existing structure, evidence of Installation Floater Insurance is required. Installation Floaters are similar to Builder’s Risk Insurance policies in that they are designed to cover damage to material and equipment to be installed in an 'existing building'. Installation floaters are required from contractors performing a specialized job on an existing building or installing equipment or materials. An example would be a contract to replace the plumbing/fixtures in a bathroom of an existing building. The Installation Floater must provide coverage from the time the equipment/material becomes the
responsibility of the Contractor and shall continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.

(6) Builder’s Risk Liability - In construction or remodeling contracts, the contractor is responsible for direct physical damage to the construction project as well as to construction materials in transit, stored at off-site storage locations and stored at the project site. The contractor, at their own cost and expense, must provide and maintain the applicable property insurance until the work is accepted by the City of Riverside. This is done through a specialized property insurance form known as "Builders’ Risk Insurance". The City requires evidence of Builder’s Risk insurance anytime a contractor is doing vertical construction or renovation/addition to a previously existing structure. Said coverage of Builder’s Risk Insurance must be written for 100% of the contract value. Builders’ risk insurance is designed to cover buildings and construction materials while in the course of construction against loss or damage caused by a variety of perils, i.e. fire, wind, hail, etc.

(7) Contractors’ Pollution Legal Liability or Asbestos Legal Liability - Environmental remediation, asbestos abatement, and other hazardous material operations involve exposures that require pollution legal liability coverage. Some contracts have pollution exposures that are not in the primary scope of work. For example, materials recovery/recycling facilities are rife with hazardous materials exposures, as are landfill operations. Road construction can also include risks of contamination to waterways from runoff or accidents involving hazardous substances. The California Water Bill defines hazardous material as “any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant presence or potential hazard to human health and safety, or to the environment.” Hazardous materials include, but are not limited to, hazardous substances and hazardous wastes.

(8) Railroad Protective Liability - Required for construction or demolition operations within 50 feet of railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossings. Contractor’s railroad protective liability insurance policy should cover both bodily injury and property damage.

(9) Cyber Liability - Cyber and privacy policies cover a business's liability for a data breach in which the firm's customers' personal information, such as Social Security or credit card numbers, is exposed or stolen by a hacker or other criminal who has gained access to the firm's electronic network.

(10) Additional Insured - (required for General Liability & Auto Liability policies): an endorsement to the Commercial General Liability (CGL) policy or Business Auto Liability policy will name the City as an additional insured under the contractor’s policy for covered claims arising from their work or activities on our behalf. This status gives the City direct rights under the Contractor’s insurance and greatly increases our chances of recovery, especially for our legal defense. This is not required under the WC policy and is not available under E&O policies.
(11) Primary Coverage - for all the insurance policies, the City requires the Contractor’s insurance to be the first to cover any claim, with the City’s coverage applicable only if the Contractor’s is exhausted. An endorsement is generally not required for the standard Business Auto policy as primary insurance language is written into the standard policy form but is recommended for the CGL policy, especially for high risk activities.

(12) Waiver of Subrogation - if an insurer pays a claim, any rights their insured may have to recover all or part of the payment from someone else are transferred to the insurer. That process and the insurer’s attempts at reimbursement are called subrogation. The City’s insurance requirements should contain a waiver of the Contractor’s rights to recover such payments and an endorsement to the WC policy is recommended in most cases.

23-101 Policy

(1) Applicable vendor insurance requirements shall be provided to and approved by the City Manager or his/her designee. Prior to the commencement of any services performed by a vendor contracted with the City, Vendors performing services for the City shall provide adequate insurance coverage meeting the minimum obligations required by written contract, or purchase order.

(2) Vendors not under contract with the City who are providing on-site services shall meet the City’s standard minimum scope and limits of insurance requirements listed herein.

(3) The City Manager or his/her designee reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

23-102 Minimum Scope and Limit of Insurance

(1) Coverage shall be at least as broad as the following for all on-site services:
   a. Commercial General Liability “CGL” (required):
      Coverage must include products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $1,000,000 per occurrence and $2,000,000 aggregate. The City must be listed as additional insured via endorsement.

   b. Automobile Liability (required):
      Limits no less than $1,000,000 per accident for bodily injury and property damage. The City must be listed as additional insured via endorsement.

   c. Workers’ Compensation (required):
As required by the State of California, with Statutory Limits, and Employers’ Liability insurance with a limit of no less than $1,000,000 per accident for bodily injury or disease.

(2) Coverage shall be at least as broad as the following for all on-site or off-site professional services:
   a. Professional Liability / Errors & Omissions Insurance:
      Required if contractor is expected to provide “professional” services. Limits no less than $1,000,000 per occurrence.
   b. Cyber Liability (applicable for certain technology and software services only)
      Required if vendor, through its service has access to confidential and sensitive data. Limits no less than $1,000,000 per occurrence.

(3) Insurance requirements are subject to be added, or removed by the City Manager or his/her designee for contracted and non-contracted work performed by any vendor.

23-103 Waiver of City Insurance Requirements

(1) Insurance requirements for vendors providing goods and services may be waived by the City Manager or his/her designee on a case-by-case basis if the vendor establishes to the satisfaction of the City Manager or his/her designee that the cost of obtaining insurance is financially prohibitive, it is impossible to obtain insurance coverage or other justifiable circumstances.

(2) Justification to waive any insurance policy shall be provided in the form of a written request by the requesting City department or vendor, and shall be subject to the review and approval of the City Manager or his/her designee.

23-104 Special Event Insurance Requirements

(1) Applicable vendor insurance requirements shall be provided to and approved by the City Manager or his/her designee Prior to the commencement of any special event.

(2) Low risk event vendors, coordinators, and exhibitors not under contract with the City who are commencing in event related activities on-site shall meet the City’s standard minimum scope and limits of low risk event insurance requirements listed in each category herein. Vendors not listed in any of the following categories are still subject to special event insurance requirements at the discretion of the City Manager or his/her designee.
   a. Standard minimum scope and limits of low risk vendor event insurance requirements:
      i. Category 1 vendors - Coverage shall be at least as broad as the following:
         • Commercial General Liability “CGL” (required):
            Coverage must include products and completed operations, property damage, bodily injury and personal & advertising injury with limits no
less than $1,000,000 per occurrence and $2,000,000 aggregate. The City must be listed as additional insured via endorsement.

ii. Category 2 vendors - Coverage shall be at least as broad as the following:
   - Commercial General Liability “CGL” (required):
     Coverage must include products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $1,000,000 per occurrence and $1,000,000 aggregate. The City must be listed as additional insured via endorsement.

iii. Category 3 vendors - Coverage shall be at least as broad as the following:
   - No insurance required.

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<td>Visual artists (painting)</td>
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<td>Other governmental agencies</td>
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(3) High risk event vendors, coordinators, and exhibitors not under contract with the City who are commencing in event related activities on-site shall meet the City’s special high risk event insurance requirements.

   a. Special high risk vendor event insurance requirements:
      i. Pyrotechnics, explosive devises, fireworks
         - Commercial General Liability “CGL” (required):
           Coverage must include products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $5,000,000. The City must be listed as additional insured via endorsement.
      ii. Carnivals and zoo animals (elephants, tigers, bears, etc.)
         - Commercial General Liability “CGL” (required):
           Coverage must include products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $5,000,000. The City must be listed as additional insured via endorsement.
      iii. If vehicles are needed/used as part of the event (shuttle/bus, car shows, etc.)
         - Automobile Liability (required):
           Limits no less than $1,000,000 per accident for bodily injury and property damage. The City must be listed as additional insured via endorsement.

SECTION 24-24 – STANDARD FORMS

2424-100 Standard Forms

(1) Most recently updated standard purchasing forms can be found on the City’s intranet.
ARTICLE 7 – GLOSSARY

SECTION 25-25 – DEFINED TERMS

- **Using Department** – A City department that utilizes any supplies, services, or construction procured by City Purchasing Officer.
- **Agent** – An individual authorized by a superior, i.e., principal or officer, to act for him, her, or in his or her authority. In public purchasing, this designation is usually incorporated into policy, statute and ordinance law.
- **Agreement** – Synonymous with Contract. See Contract.
- **Alternative Bid** – A bid submitted in knowing variance from the specifications, terms, conditions or provisions of the solicitation.
- **Amendment** – Synonymous with Modification. See Modification.
- **Arbitration** — A process, non-binding or binding, by which a dispute between two or more contending parties is presented to one or more disinterested parties for a decision; a process whereby a disagreement may be resolved.

- **Architect or Engineer** — Persons or firms providing professional services of an architectural or engineering nature, as well as those providing incidental services that members of these professions and those in their employ may logically or justifiably perform. (Refer to California Government Code §4525).

- **Auto Liability Insurance** — All contractors engaged in services on City property are required to maintain minimum automobile liability insurance of $1 million for each occurrence, naming the City of Banning as an additional insured. Certain high-risk activities require higher limits.

- **Award** — The presentation of a purchase agreement or contract to a bidder or proposer.

- **Best Interest** — The discretionary rationale used by purchasing officials in taking action most advantageous to the jurisdiction when it is impossible to adequately delineate a specific response by law or regulation.

- **Bid** — The offer submitted by a bidder in response to an Initiation for Bid (IFB), a request for quotation, or a multi-step bidding procedure. A bid includes a cost for goods and services to be provided per the specifications included in the bid solicitation issued by the City.

- **Bid Bond** — An insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event that a specific bidder, if its bid is accepted, fails to accept the contract as bid.

- **Bid Opening** — The formal process through which bids are opened and the contents revealed for the first time to the jurisdiction, other bidders, and usually, to the public.

- **Bid Surety** — A surety bond ensures contract completion in the event of contractor default. City hired contractor (principal) to fulfill a contract and if defaults, the surety company (insurer) is obligated to find another contractor to complete the contract or compensate the City for the financial loss incurred.

- **Bidders List** — Same as Vendor List; a list maintained by the City Purchasing Officer setting out the names and addresses of suppliers of various goods and services from whom bids, proposals, and quotations can be solicited.

- **Blanket Purchase Order** — A purchase order permitting the buyer to place individual orders or releases to a particular supplier for goods/services for a specified period of time using the same purchase order number.

- **Brand Name** — A name that serves to identify a product of a particular manufacturer; a trade name.

- **Change Order** — Synonymous with Modification.

- **City Council Agenda Report** — A document by which matters are submitted to City Council for consideration during its regular meetings.
• **City Purchasing Officer** — An employee of the City of Banning who is appointed by, trained, and certified under the direction of the Deputy City Manager to act in the capacity to procure goods and/or service Citywide.

• **Collusion** — A secret agreement or cooperation between two or more parties to accomplish a fraudulent, deceitful, or unlawful act.

• **Commercial General Liability (CGL)** — All contractors engaged in services on City property are required to maintain minimum liability insurance of $1 million per occurrence naming the City of Banning as an additional insured. Certain high-risk activities require higher limits.

• **Commodities** — All supplies and all equipment.

• **Competitive Process** — The process by which two or more vendors vie to secure the business of a purchaser by offering the most favorable terms as to price, quality, delivery, and/or service.

• **Compliance Monitoring** — A process whereby the City Purchasing Officer selects and reviews procurement transactions conducted by departments for the purpose of ensuring that the City purchasing process is fair, equitable, effective, lawful, and efficient.

• **Confirming Order** — A purchase order written and sent to a vendor to verify that an order which was transmitted orally is authorized.

• **Conflict of Interest** — A situation where the personal interests of a contractor, public official and/or designated employee are/is, or appears to be, at odds with the interests of the jurisdiction.

• **Consent Agenda Items** — Those agenda items, as identified by the City Manager, which are placed in the Section of the City Council agenda for review and approval as a group. Items on the Consent Calendar may be pulled by City Council, City staff, or a member of the public for discussion and individual Council action.

• **Consultant** — A person or firm who provides professional or expert advice and/or recommendations.

• **Contingency** — City Council authorized percentage or specific amount of money which can be added to the base contract amount to provide for small changes to the contract without returning to Council for approval. The percentage granted will not be based on the total amount of the contract, as it may accumulate in subsequent term years, etc., of the contract but will be based on the initial contract amount.

• **Contract** — 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.

• **Contract Administration** — The management of various facets of contracts to assure that the contractor's total performance is in accordance with the contractual terms and conditions for all parties thereto.

• **Contractor** — Any person or corporate entity having a contract with a governmental entity.
**Cooperative Purchase Agreement** – 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.

**Consulting Services** - Purchase of Service for the purpose of obtaining an intellectual product, e.g. asbestos survey, audit reports, investigative reports, plan reviews, photos, advice, training, parking ticket processing.

**Debarment** – A shutting out or exclusion, through due process and for cause, e.g., a bidder from a list of qualified prospective bidders.

**Designated Employees** – Those employees of the City of Banning who are required to file conflict of interest statements because those employees, in the course of their employment make, or participate in the making of decisions which may potentially have a material effect on the financial interest of the employees.

**Discount** – An allowance or deduction from a normal or list price extended by a seller to a buyer to make the net price more competitive.

**Discussion Agenda Items** – Those agenda items, as identified by the City Manager, which are placed in the section of the City Council agenda for discussion and individual Council action. All items requiring the Council to select from a slate or a list of recommendation options, among others, are placed on the Discussion Calendar.

**Dispute** – A difference between a contractor and a jurisdiction over performance or other elements of a contract calling for appropriate administrative action with the intent of achieving a remedial result.

**Electronic Waste (e-waste)** – An electronic device powered by electricity or a battery that has a printed circuit board or video display attached that has reached the end of its useful life and is being discarded by the user. Examples include: televisions, computers, computer peripherals and components, hard drives, CD-DVD drives, printers, facsimile machines, copiers, and wireless phones and devices.

**Emergency** – Situations where the welfare of the City residents are at stake and/or immediate purchasing action is required to prevent serious economic or other hardship to the City; requires a timely decision that must be made to prevent loss of life, damage to property or facilities, or to mitigate an imminent threat to public health, welfare, or safety.

**Equal or Equivalent** – A phrase used to indicate the acceptability of products of similar or superior function.

**Equipment** – Property of a durable nature which retains its identity throughout its useful life.

**Evaluation Committee** – A committee comprised of three or more individuals that advises and assists in proposal evaluation and award of contract.
• **Evaluation Criteria** – Criteria set forth in the Request for Proposal (RFP) and used by the evaluation committee to score and rank proposers who respond to the procurement solicitation.

• **Express Warranty** – Any affirmation of fact or promise made by a seller to a buyer which relates to the goods and becomes part of the basis of the bargain.

• **Firm Bid** – A bid that binds the bidder until a stipulated time of expiration of the bid.

• **Fixed Assets** – All tangible property costing $5,000 or more per item, including tax, delivery and installation, with a useful life expectancy exceeding one (1) year.

• **Fixed Price Contract** – A contract which provides for a firm price under which the contractor bears the full responsibility for profit or loss.

• **Force Account** – Use of internal (City) labor.

• **Formal Advertising** – The placement of a notice in a newspaper or other publications according to legal requirements to inform the public that the government is requesting bids on a specific purchase it intends to make.

• **Formal Bid Process** – The competitive bid process requiring a public bid opening with the date, time, and location set forth in the bid solicitation.

• **Gratuity** – A payment, loan, subscription, advance deposit of monies, services or anything of more than nominal value presented or promised for consideration of a purchasing decision or recommendation.

• **Guarantee** – To warrant, stand behind, or ensure performance and quality.

• **Incremental Contracting** – Contracting in small segments to avoid competitive bid requirements or City Council approval.

• **Indemnification** – Other party waiver and party protection against incurred loss, damage, or hurt, usually by monetary compensation.

• **Informal Bid** – An unsolicited competitive offer conveyed by letter, telephone, telegram, or other means and under conditions different from those required for formal bidding.

• **Insurance** – A contract between a certified insurance firm and the City that provides for monetary payment(s) in the event of damage, loss, accident, or death; also, a contract between a contractor, naming the City as an Additional Insured (AI), for the purpose of reimbursing the City for any loss incurred due to the nature of the work being performed by the contractor.

• **Invitation for Bid (IFB)** – The solicitation document used for competitive sealed bidding for the purchase of equipment, materials, supplies, services, and construction, for which clear specifications can be written.

• **Lead Time** – The period of time from date of order to date of delivery during which the buyer must reasonably allow the vendor to prepare goods for shipment; the period of time needed to process purchase requisitions for bid/proposal solicitation and award of contract.
• **Liquidated Damages** – Parties designate the amount of damages during the formation of a contract for possible injury to collect as compensation upon a specific breach of contract (e.g., late or partially breached performance).

• **Modification** – A written document signed by the City Purchasing Officer that directs the contractor to make or that the City is making changes to the originally signed contract between the parties.

• **Multi-Departmental Contracts** – Contracts issued by the City Purchasing Officer for the purchase of goods and services, which may be used by more than one City department under the condition that the department is named on the contract as an authorized user.

• **Negotiation** – The discussion or correspondence between City and the preferred contractor in order to develop a contract with terms and conditions that serve the best interests of the City and is fair and equitable to the contractor.

• **One-Time Purchases** – Purchases for particular goods or services which cover a particular need. These types of purchases are distinguished from annual or blanket contracts which cover a continuing need of an item or service.

• **Performance Surety** – Synonymous with Bid Surety. See Bid Surety.

• **Petty Cash** – Funds set aside as a cash reserve in a revolving fund for single expenditures of limited nature.

• **Piggy-Back Agreement** - 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.

• **Pre-Bid/Pre-Proposal Conference** – A meeting set up between the City parties issuing a bid/proposal solicitation and the potential bidders/proposers for the purpose of clarifying the bid/proposal solicitation and answering any questions the bidders/proposers may have.

• **Prequalification** – A process used prior to solicitation of bids to determine if potential bidders have the ability to fulfill the contract requirements for which the solicitation will be issued and/or to determine if the potential bidders’ products will meet the cost and performance criteria required to meet the City’s needs.

• **Prevailing Wage** - Payment of prevailing wages, shall be required on all publicly funded public works contracts of $1,000 or more. When a contract requires this, notification will be included in the call to bid.

• **Professional Services** - 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.

- **Proposal** – The executed document submitted by a proposer in response to a Request for Proposal (RFP). A proposal includes a detailed description of the goods and/or services to be provided to the City per the scope of work included in the RFP, including but not limited to cost, time frame for completion of work or delivery of goods, and method of accomplishment of services.

- **Proprietary Product** – An item or service that must meet particular restrictive specifications, but may be available from multiple sources.

- **Public Works Contract** – An agreement for erection, construction, alteration, repair, or improvement of any public structure, building, road, or any other public improvement of any kind (see Public Contracts Code, §20161).

- **Purchase Order** - 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 the policies and procedures.

- **Rejection of Bid** – The non-acceptance of submitted bid(s).

- **Request for Proposal (RFP)** – The solicitation document which includes a scope of work and terms and conditions used to secure proposals for services or goods not clearly defined by the City in terms of exact specifications or manner of delivery of services or where price is not the sole selection criteria.

- **Request for Qualifications (RFO)** – A document that describes the project or services required and solicits qualifications for potential vendors or contractors for purposes of evaluating those qualifications for screening purposes or for award of contract.

- **Responsible Bidder** – A bidder who has the capability in all respects to perform in full the contract requirements and who has the integrity and reliability which will assure a good faith performance.

- **Responsive Bidder** – A bidder whose bid conforms in all material respects to the terms and conditions, the specifications and all other requirements of the respective solicitation.

- **Services** – The furnishing and delivery of labor, time, or effort by a contractor/consultant involving specific performance.

- **Short Form Purchase Orders** - 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.

- **Sole Source** – An award for a commodity or service to the only known capable supplier, occasioned by the unique nature of the requirement, the supplier, or market conditions.
• **Solicitation** – A good faith effort to obtain a bid or proposal for the provision of goods and/or services.

• **Specification** – A description of what the purchaser seeks to buy, and consequently, what a bidder/proposer must be responsive to in order to be considered for award to a contract.

• **Standard** – A characteristic or set of characteristics for an item that, for reasons of performance level, compatibility or interchangeability with other products, etc., is generally accepted by producers and by users of the items as a requested characteristic of all items for the designated purpose.

• **Subcontractor** – Any person undertaking part of the work under the terms of the contract, by virtue of the agreement with the contractor.

• **Supplier** – An actual or potential contractor; a vendor.

• **Terms and Conditions** – A general reference applied to the provisions under which bids/proposals must be submitted and which are applicable to most purchase contracts.

• **Terms of Payment** – Methods and timelines by which the City must render payment under a purchase agreement.

• **Waiver of Bid** – A process authorized by law or rule whereby the City Purchasing Officer may procure items without competitive bidding procedures because of unique circumstances related to a particular need or procurement.

• **Waiver of Mistake or Informality** – The act of disregarding errors or technical nonconformities in the bid/proposal which do not go to the substance of the bid/proposal and will not adversely affect the competition between bidders/proposers.

• **Warranty** – A representation of utility, condition, and durability made by a bidder or proposer for a product offered.

• **Worker’s Compensation Insurance** - All contractors engaged in service on behalf of the City are required to maintain Worker’s Compensation Insurance in accordance with the provisions of the State of California, including a waiver of subrogation rights against the City.
ATTACHMENT 3
Vendor Insurance Waiver Request Form
CITY OF BANNING

VENDOR INSURANCE WAIVER REQUEST FORM

DATE:
TO: PURCHASING OFFICER
FROM:
RE: REQUEST TO WAIVE INSURANCE REQUIREMENTS

Insurance requirements for vendors providing goods and services, instructors, contractors and consultants may be waived by the City Manager or his/her designee (Purchasing Officer) on a case-by-case basis if the vendor establishes to the satisfaction of the City Manager that the cost of obtaining insurance is financially prohibitive, it is impossible to obtain insurance coverage or other circumstances as described below. To make this process efficient and easy to use by the requesting departments, please completely fill out this form and send to the Purchasing at least five (5) business days before committing to the delivery of the goods or performance of the service.

<table>
<thead>
<tr>
<th>Purchase Requisition, or Purchase Order Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vendor Name:</td>
</tr>
<tr>
<td>Detailed Scope of work or Goods and Services Provided:</td>
</tr>
<tr>
<td>Time Frame of Services to be Provided:</td>
</tr>
</tbody>
</table>

Please consider waiving insurance as follows (check all that apply):

Commercial General Liability

☐ The work being performed is done solely on vendor’s premises.
☐ The work being performed does not involve use of dangerous equipment, etc.
☐ Other:

Commercial Auto Liability

☐ Automobiles are not required for performance of the work in conjunction with the scope of services.
☐ Vendor will not be driving to multiple City facilities in conjunction with the scope of services.
Workers Compensation Liability

The State of California requires every business to provide workers compensation insurance coverage. However, if the vendor is a sole proprietor and does not have employees, the requirement can be waived by having the vendor submit a statement acknowledging that the vendor is aware of the workers compensation laws of the State of California and if at any time during the term of the agreement, any employees are hired, the vendor will comply with the requirements of the workers compensation laws and provide evidence of coverage to the City.

Vendor’s Workers Compensation exception letter is attached.

Professional/Errors and Omissions Liability

☐ A professional opinion is not being issued by the Consultant.
☐ Consultant’s professional work, product or design is reviewed, approved and finalized by City staff.
☐ Other:

Builder’s Risk Liability

☐ The scope of work does not include building construction
☐ Contractor agrees to pay the City’s $100,000 deductible in the event of a loss.
☐ Other:

Instructions:
Attach any available insurance documents provided by the vendor and a copy of the contract/agreement (if applicable).

Conditions:
I certify that I understand the risks involved in obtaining a request for waiver of the insurance requirements pertaining to the vendor listed above. Should the City be responsible for any losses as a result of this waiver, I understand and agree that my departmental budget assumes financial responsibility in the event of a loss. I have reviewed the scope of work and approve this request to waive the insurance requirements pertaining to the work and/or product(s) provided by the vendor.

Requesting Department Head signature: ______________________________

Purchasing Officer Signature: ______________________________
Purchasing Notes:
ATTACHMENT 4
Sample Insurance Certificate with Endorsements
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

INSURANCE BROKER/AGENCY
123 MAIN STREET
HOMETOWN CA 91234

CONTACT NAME:

PHONE/ FAX:

E-MAIL:

INSURER(S) AFFORDING COVERAGE

INSURER A: INSURER'S FULL LEGAL NAME

12345

INSURED

YOUR COMPANY
1234 YOUR STREET
YOURTOWN CA 91234

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

<table>
<thead>
<tr>
<th>INSURED</th>
<th>TYPE OF INSURANCE</th>
<th>ADDED SUBROGATION WOV</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF (MM/DD/YYYY)</th>
<th>POLICY EXP (MM/DD/YYYY)</th>
<th>LIMITS</th>
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<tbody>
<tr>
<td>A</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
<td>OCCUR</td>
<td>FULL POLICY NUMBER</td>
<td>01/01/2018</td>
<td>01/01/2019</td>
<td>EACH OCCURRENCE</td>
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<td>DAMAGE TO RENTED PREMISES (Ex occurrence)</td>
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<td>MED EXPI (Any one person)</td>
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<td>PERSONAL &amp; ADV INJURY</td>
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<td>GENERAL AGGREGATE</td>
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<td>PRODUCTS - COMP/OP AGG</td>
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<td>AUTOMOBILE LIABILITY</td>
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<td>FULL POLICY NUMBER</td>
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<td>01/01/2019</td>
<td>COMBINED SINGLE LIMIT (Ex accident)</td>
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<td>BODILY INJURY (Per person)</td>
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<td>BODILY INJURY (Per accident)</td>
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<td>PROPERTY DAMAGE (Per accident)</td>
</tr>
<tr>
<td>A</td>
<td>UMBRELLA LIABILITY</td>
<td>OCCUR</td>
<td>FULL POLICY NUMBER</td>
<td>01/01/2018</td>
<td>01/01/2019</td>
<td>EACH OCCURRENCE</td>
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<td>AGGREGATE</td>
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<tr>
<td>A</td>
<td>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</td>
<td>Y/N</td>
<td>FULL POLICY NUMBER</td>
<td>01/01/2018</td>
<td>01/01/2019</td>
<td>E.L. EACH ACCIDENT</td>
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<td>E.L. DISEASE - FA EMPLOYEE</td>
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<td>E.L. DISEASE - POLICY LIMIT</td>
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</tbody>
</table>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Description of work performed for the City of Banning, reference to event or description of operations.

The City of Banning and its officers, employees and agents shall be named as additional insured as respects to the operations of the named insured per attached General Liability Form XXXXX and Automobile Form XXXXX. Workers Compensation Waiver of Subrogation applies in favor of the City of Banning per attached Form XXXXX.

CERTIFICATE HOLDER

AUTHORIZED REPRESENTATIVE

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ACORD 25 (2016/03) The ACORD name and logo are registered marks of ACORD

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630 09-12 03-19-2016
THERE ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

<table>
<thead>
<tr>
<th>Name Of Additional Insured Person(s) Or Organization(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The City of Banning, its officers, employees and agents are added as additional insureds.</td>
</tr>
</tbody>
</table>

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf.

A. In the performance of your ongoing operations; or
B. In connection with your premises owned by or rented to you.
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement is effective on the inception date of the policy unless another date is indicated below.

SECTION II — LIABILITY COVERAGE. 1. WHO IS AN INSURED is amended to include as an "insured" the person(s) or organization(s) named in the Schedule below, but only with respect to their legal liability for acts or omissions of a person for whom Liability Coverage is afforded under this policy. You are authorized to act for the additional insured named in the Schedule in all matters pertaining to this insurance.

SCHEDULE

<table>
<thead>
<tr>
<th>Name and Address of Additional Insured:</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANY PERSON OR ORGANIZATION THAT YOU HAVE AGREED IN A WRITTEN CONTRACT, THAT SUCH PERSON OR ORGANIZATION IS AN ADDITIONAL INSURED ON THIS POLICY.</td>
</tr>
</tbody>
</table>

All other terms and conditions of this Policy remain unchanged.

Endorsement Number:

Policy Number:

Named Insured:

Endorsement Effective Date: local Standard Time at the First Named Insured's address.
WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

<table>
<thead>
<tr>
<th>Endorsement Insured</th>
<th>Effective Policy No.</th>
<th>Endorsement No. Premium</th>
<th>Countersigned by</th>
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(Ed. 4-84)

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CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Rochelle Clayton, Deputy City Manager
MEETING DATE: February 26, 2019
SUBJECT: Resolution 2019-02 Amending the Fiscal Year 2018-2019 Budget for the addition of two Code Compliance Officers and to update the Classification and Compensation Plan to reclassify the Senior Code Compliance Officer to Code Compliance Supervisor.

RECOMMENDATION:

1. Adopt Resolution 2019-02 amending the Fiscal Year 2018-2019 Budget for the addition of two Code Compliance Officers and update the Classification and Compensation Plan to reclassify the Senior Code Compliance Officer to Code Compliance Supervisor, due to the voter approval Ballot Measures N and O at the November 2018 election, to support retail and commercial cannabis operations in Banning.

2. Authorizing the City Manager or designee to make necessary classification and budget adjustments, appropriations and transfers related to salary and benefits.

JUSTIFICATION:

During the November 6, 2018 election, Banning voters approved tax measures N and O, permitting retail and commercial cannabis operations in specified zones within the City of Banning, which shall generate general tax revenues for the City. Two additional Code Compliance Officers were approved in Fiscal Year (FY) 2017-2018 budget, when the ballot measures were introduced, but later removed from the budget unless the measures passed. Measure N passed by 61.29% and Measure O passed by 61.9%.

Staff recommends the reclassification of the Senior Code Compliance Officer to Code Compliance Supervisor. Specific oversight and training will be necessary for new officers, and there is no supervisor that is designated solely to Code Enforcement.

Formerly, the Code Enforcement division was under Community Development and the Development Services Manager/Chief Building Official provided supervision and training to Code Compliance Officers. During the last recession, Code Compliance Officers and the Development Services Manager were eliminated from the budget, leaving only two
officers and the division was reassigned to the Police Department. Since that time, there has been no dedicated supervisor to Code Enforcement.

The Cities of Moreno Valley, Riverside and Hemet each have a Code Enforcement Manager. Staff is proposing a Supervisor position as it is more appropriate due to the continued field work the proposed Code Compliance Supervisor position will conduct. The referenced cities also have Level I and Level II officers, which staff will further evaluate for Banning in the future, after the division is fully staffed and trained. See below for the structure in each referenced city:

**Moreno Valley:** Code Compliance Officer I & II; Code & Neighborhood Division Manager

**Riverside:** Code Enforcement Officer I & II; Code Enforcement Manager

**Hemet:** Code Enforcement Officer I & II; Code Compliance Manager

**BACKGROUND:**

The City is facing a budget deficit in the upcoming fiscal years. To analyze the options of generating additional revenues needed to balance the budget, the Council formed a Cannabis Ad Hoc committee in 2017 to analyze the impact of legal cannabis operations in the City of Banning, to increase general tax revenue. The committee recommended and Council approved Resolution 2018-82, placing the two tax measures on the November 6, 2018 ballot, imposing a general tax on retail and commercial cannabis revenues.

When the Budget and Finance Committee supported the tax measures to go to the voters for approval, they also recommended additional code enforcement officers to be budgeted. In the mid-year budget adjustments for FY 2017-2018, Council approved two additional Code Compliance Officers. However, due to the initial proposed budget deficit for FY 2018-2019 at the May 22, 2018 Budget Workshop, staff recommended removing the two positions as they had not yet been filled, until the ballot measures were passed by the voters.

**FISCAL IMPACT:**

The FY 2018-2019 fiscal impact is approximately $40,000 to the General Fund. The annual fiscal impact for two code enforcement officers is approximately $181,630 at step three of the salary schedule and the annual fiscal impact for the reclassification to Code Compliance Supervisor is $17,314, for a total annual fiscal impact of approximately $198,944 to the General Fund. Future cannabis tax revenues are expected to offset the expenditure increase.

**OPTIONS:**

1. Approve the two Code Compliance Officers and supervisor reclassification.

2. Provide alternative direction.
ATTACHMENTS:

1. Resolution 2019-02 (including exhibits)
2. Code Compliance and Supervisor Position Budget Worksheets
3. Senior Code Compliance Officer Job Description
4. Development Services Manager/Building Official Job Description

Approved by:

[Signature]

Douglas Schulze
City Manager
ATTACHMENT 1
Resolution 2019-02
Including Exhibits
RESOLUTION 2019-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AMENDING THE FISCAL YEAR 2018-2019 BUDGET TO INCREASE GENERAL FUND EXPENDITURES IN THE AMOUNT OF FORTY THOUSAND DOLLARS ($40,000) FOR THE ADDITION OF TWO CODE ENFORCEMENT OFFICERS AND RECLASSIFICATION OF THE SENIOR CODE ENFORCEMENT OFFICER TO CODE ENFORCEMENT SUPERVISOR

WHEREAS, it is necessary to amend the City’s Budget from time to time to maintain a current plan which reflects the nature of work, organizational structure, or otherwise; and

WHEREAS, the City placed two general tax measures on the November 6, 2018 ballot for retail and commercial cannabis operations; and

WHEREAS, the voters of Banning approved the two general tax measures on the November 6, 2018 for retail and commercial cannabis operations; and

WHEREAS, the City’s Code Enforcement division is not sufficiently staffed to effectively monitor and enforce code compliance with the new business operations in the City; and

WHEREAS, additions or changes to job descriptions, job titles and/or pay ranges require Council approval.

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

SECTION 1: That the City Council approve the General Fund expenditure budget increase of forty thousand dollars ($40,000).

SECTION 2: That the City Council approve the following position updates:

<table>
<thead>
<tr>
<th>Reclass</th>
<th>Senior Code Compliance Officer</th>
<th>(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code Compliance Supervisor</td>
<td></td>
<td>1</td>
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</tbody>
</table>

SECTION 3: That the City Council approve the new or revised job descriptions, classification and compensation for the following positions as Exhibit “A”:

Code Compliance Supervisor (Job Code 3235, Grade G70)

SECTION 4: That the City Council approve the classification and compensation plan – Schedule “A” as Exhibit “B”.

Resolution 2019-02
PASSED, APPROVED, AND ADOPTED this 26th day of February, 2019.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

Daryl Betancur, Deputy City Clerk

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-02 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2019, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

__________________________
Daryl Betancur, Deputy City Clerk
City of Banning, California
EXHIBIT "A"
CITY OF BANNING, CALIFORNIA

Code Compliance Supervisor

Job Code: 3235
Salary Grade: G70

JOB DEFINITION: Under general supervision of the Police Chief or designee, provides supervision and training to Code Enforcement Officers and office staff. Establishes and maintains code enforcement activity for the division, and conducts the more complex code enforcement activities involving code violations, investigation and enforcement of City Ordinance and related state regulations including housing, zoning, land use, health, sanitation and public nuisances.

ESSENTIAL FUNCTIONS: The following duties ARE NOT intended to serve as a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.

REPRESENTATIVE DUTIES:
- Plans, assigns, and supervises the work of staff responsible for the inspection, investigation, and enforcement of State and City codes and ordinances relating to public nuisances, including but not limited to zoning, building, weeds, and signs.
- Establishes schedules and timelines for providing code enforcement services; determines staffing needs for assigned activities and projects and identifies resource needs.
- Coordinates work projects and programs with various city officials, department personnel, and other agencies.
- Investigates complaints for compliance with municipal codes; issues notices and orders; issues citations.
- Supervises the preparation of code enforcement cases for legal action; provides testimony for administrative hearings, City Council or Planning Commission hearings, and court proceedings.
- Confers with commercial and residential property owners, developers, contractors, attorneys, homeowner associations, property managers, citizen groups, outside agencies and City staff to interpret codes and resolve problems; responds to public inquiries regarding code enforcement matters.
- Performs personnel administrative functions; counsels subordinates on compliance with procedures, rules and regulations; evaluates performance and assesses discipline as needed.
- Maintains web information.
- Prepares warrant and affidavit for abatement notices, ensures appropriate documentation is archived.
- Performs other duties as assigned or required.

Performs complex code enforcement case investigations, prepares case documentation related to casework, assists other code enforcement personnel in the investigation and case preparation for complex cases. Assigns cases, oversees case loads, maintains code enforcement activity. Position requires a significant level of specialized work requiring significant exercise of independent judgment.

Plan, organizes, supervises and evaluates the work and performance of assigned staff. Develops, implements, and monitors work plans to achieve goals and objectives. Prepares and reviews inspection reports. Documents findings with photographs and written statements, prepares correspondence to inform responsible party of the violation and required action.

KNOWLEDGE and SKILLS:
- Knowledge of applicable city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives.
- Knowledge of the City's and the Department's policies and procedures.
- Knowledge of code enforcement procedures in California.
CITY OF BANNING, CALIFORNIA
Code Compliance Supervisor

Job Code: 3235
Salary Grade: G70

KNOWLEDGE and SKILLS (continued):

- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in working within deadlines to complete projects and assignments.
- Skill in conducting effective plan reviews and building inspections.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.
- Skill in operating a personal computer utilizing a variety of software applications.
- Skill in directing and evaluating the work of subordinate employees.

MINIMUM QUALIFICATIONS: A high school diploma or GED AND five (5) years of building inspection experience, including investigating and enforcing municipal or other public jurisdiction laws and ordinances governing residential, commercial and industrial properties WITH at least two (2) of those years as a lead or supervising code enforcement officer.

ADDITIONAL REQUIREMENTS: Must have at the time of application and must maintain PC 832 Certification. Must have at the time of application and must maintain a California driver license. May be exposed to extreme weather conditions, potential physical harm, infectious diseases, hazardous chemicals and/or dangerous machinery. May be required to work outside the traditional work schedule. May be subject to call out and/or call-back.

Code Enforcement Officer Certification by the California Code Enforcement Officers Association (CACEO) or by the International Code Council/American Association of Code Enforcement (ICC/AACE) is preferred.
EXHIBIT “B”
## CITY OF BANNING
### CLASSIFICATION & COMPENSATION PLAN
**REVISED JANUARY 22, 2019**
### RESOLUTION 2019-02 (AMENDING RESOLUTION 2019-01)

#### MATRIX BY CLASS SERIES/JOB CODE

<table>
<thead>
<tr>
<th>Class Series/Occupational Job Group</th>
<th>Job Code</th>
<th>Classification/Position</th>
<th>Salary Range</th>
<th>Bargaining Unit</th>
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<td>Mgmt/Confidential</td>
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<td><strong>2010</strong></td>
<td><strong>Police Chief</strong></td>
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<td></td>
<td><strong>2016</strong></td>
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<td><strong>2025</strong></td>
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<td><strong>2030A</strong></td>
<td><strong>Police Staff/Master Sergeant</strong></td>
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<td><strong>Police Officer</strong></td>
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<td></td>
<td><strong>2060</strong></td>
<td><strong>Police Recruit/Trainee</strong></td>
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<td><strong>2110</strong></td>
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<td><strong>2130</strong></td>
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<td><strong>3026</strong></td>
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<td><strong>3115</strong></td>
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Classification & Compensation Plan - Amended: 01/22/2019
### 3300-COMMUNITY SERVICES GROUP

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### 4000-PUBLIC WORKS SERIES

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<td>Streets/Parks Group</td>
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| General Maintenance and       | Code | Title                                      | Code | Union       |
| Support Group                 |      |                                            |      |             |
|                               | 4410 | Fleet Manager                              | T75  | TEAMSTERS   |
|                               | 4420 | Fleet Maintenance Mechanic                 | G53  | IBEW-G      |
|                               | 4425 |                                           |      |             |
|                               | 4430 | Building Maintenance Specialist            | G53  | IBEW-G      |
|                               | 4441 | Community Center Caretaker                 | G36  | IBEW-G      |
|                               | 4450 | Warehouse Services Specialist              | U52  | IBEW-U      |

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### 5000 ELECTRIC UTILITIES SERIES

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<td>Senior Electric Service Planner</td>
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<td>U57</td>
<td>IBEW-U</td>
<td></td>
</tr>
<tr>
<td>5110</td>
<td>Electric Operations &amp; Maintenance Manager</td>
<td>T85</td>
<td>TEAMSTERS</td>
<td></td>
</tr>
<tr>
<td>5120</td>
<td>Powerline Crew Supervisor</td>
<td>U79</td>
<td>IBEW-U</td>
<td></td>
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<tr>
<td>5130</td>
<td>Powerline Technician</td>
<td>U75</td>
<td>IBEW-U</td>
<td></td>
</tr>
<tr>
<td>5140</td>
<td>Powerline Apprentice</td>
<td>U67/73</td>
<td>IBEW-U</td>
<td></td>
</tr>
<tr>
<td>5150</td>
<td>Electric Services Worker</td>
<td>U52</td>
<td>IBEW-U</td>
<td></td>
</tr>
<tr>
<td>5161</td>
<td>Substation Test Technician</td>
<td>U75</td>
<td>IBEW-U</td>
<td></td>
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<tr>
<td>5160</td>
<td>Electric Meter Test Technician</td>
<td>U75</td>
<td>IBEW-U</td>
<td></td>
</tr>
<tr>
<td>5170</td>
<td>Apprentice Electric Meter Test Technician</td>
<td>U67/73</td>
<td>IBEW-U</td>
<td></td>
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</tbody>
</table>
ATTACHMENT 2

Code Compliance and Supervisor Position Budget Worksheets
Fiscal Year 2018-19
CODE ENFORCEMENT OFFICER
Salary and Benefits Calculation

Code Enforcement Officer
FY19
SALARY RANGE - G58
($22,9959 - $31,1106)
Hourly 24.18 Step 3
Annual $ 50,302.51

Uniform Allowance/POST Cert 250.00
Benefit Allowance 16,200.00

Maximum Cash Out:
Sick Payoff 967.36
Personal Payoff 0.00
Vacation Payoff 1,934.71
Total Salary Cost 69,654.58

Life Insurance 432.00
PERS Employer Cost 12,575.63
Medicare 1,099.99
Social Security 4,318.58
SUI 563.39
WC 2,260.09
Total Benefit Cost 21,159.68

Total Salary & Benefits $ 90,814.26

2 CODE ENFORCEMENT OFFICERS 181,628.53

FY2019 BUDGET IMPACT 30,271.42
ATTACHMENT 3
Senior Code Compliance Officer Job Description
CITY OF BANNING, CALIFORNIA

Senior Code Compliance Officer
Job Code: 3235

FLSA [ ] Exempt [ x ] Non-Exempt

JOB DEFINITION: Under general supervision of the Development Services Manager/Chief Building Official provides lead supervision and training to Code Enforcement Officers and office staff. Establishes and maintains code enforcement activity for the division, and conducts the more complex code enforcement activities involving code violations, investigation and enforcement of City Ordinance and related state regulations including housing, zoning, land use, health, sanitation and public nuisances.

ESSENTIAL FUNCTIONS: The following duties ARE NOT intended to serve as a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.

REPRESENTATIVE DUTIES: Performs complex code enforcement case investigations, prepares case documentation related to casework, assists other code enforcement personnel in the investigation and case preparation for complex cases. Assigns cases, oversees case loads, maintains code enforcement activity. Position requires a significant level of specialized work requiring significant exercise of independent judgment.

Plan, organizes, supervises and evaluates the work and performance of assigned staff. Develops, implements, and monitors work plans to achieve goals and objectives. Prepares and reviews inspection reports. Documents findings with photographs and written statements, prepares correspondence to inform responsible party of the violation and required action. Maintains web information.

Prepares warrant and affidavit for abatement notices, ensures appropriate documentation is archived.

Performs other duties as assigned or required.

KNOWLEDGE and SKILLS:

- Knowledge of applicable city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives.
- Knowledge of the City's and the Department's policies and procedures.
- Knowledge of code enforcement procedures in California

- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in working within deadlines to complete projects and assignments.
- Skill in conducting effective plan reviews and building inspections.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.
- Skill in operating a personal computer utilizing a variety of software applications.
- Skill in directing and evaluating the work of subordinate employees.

(continued on reverse side)
CITY OF BANNING, CALIFORNIA

Senior Code Compliance Officer

Job Code: 3235

MINIMUM QUALIFICATIONS: A high school diploma or GED AND five (5) years of building inspection experience WITH at least two (2) of those years as a lead or supervising code enforcement officer.

ADDITIONAL REQUIREMENTS: Must have at the time of application and must maintain PC 832 Certification. Must have at the time of application and must maintain a California driver license. May be exposed to extreme weather conditions, potential physical harm, infectious diseases, hazardous chemicals and/or dangerous machinery. May be required to work outside the traditional work schedule. May be subject to call out and/or call-back.
ATTACHMENT 4
Development Services Manager/Building Official Job Description
CITY OF BANNING, CALIFORNIA

Development Services Manager (Building Official)

Job Code: 3210

FLSA [x] Exempt [ ] Non-Exempt

JOB DEFINITION: Under general direction, oversees, plans, organizes and administers operations related to the enforcement of California model construction codes including building, plumbing, electrical and mechanical codes. Reviews construction plans and permit applications and oversees the enforcement of City ordinances.

ESSENTIAL FUNCTIONS: The following duties ARE NOT intended to serve as a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.

REPRESENTATIVE DUTIES: Reviews newly adopted construction codes and proposed code changes. Monitors changes in acceptable construction materials and methods. Keeps abreast of new laws and court decisions that affect construction and code enforcement. Develops policies and procedures in response to changes in codes and laws. Recommends new ordinances and modifications to existing ordinances to meet the changing needs of the City.

Reviews building plans, specifications and applications for permits for new construction or modification to existing structures. Establishes and collects permit fees. Issues construction permits. Conducts complex building inspections and code enforcement investigations. Monitors and manages collection of monies relating to permit fees. Reviews and approves revenue and expenditure activities of the division.

Selects, assigns, evaluates and manages building inspection and code enforcement personnel work activities. Prioritizes, schedules and delegates work assignments of building inspection and code enforcement staff. Identifies and implements new employee and on-going staff training programs.

Performs other duties as assigned or required.

KNOWLEDGE and SKILLS:

- Knowledge of applicable city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives.
- Knowledge of the City's and the Department's policies and procedures.
- Knowledge of management and/or supervision principles.
- Knowledge construction and engineering concepts.
- Knowledge of bookkeeping and accounting procedures and principles.

- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in working within deadlines to complete projects and assignments.
- Skill in assessing, analyzing, identifying and implementing solutions to complex problems.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.
- Skill in operating a personal computer utilizing a variety of software applications.

(continued on reverse side)
CITY OF BANNING, CALIFORNIA

Development Services Manager (Building Official)

Job Code: 3210

MINIMUM QUALIFICATIONS: A high school diploma or GED AND five (5) years of building inspection and/or code enforcement experience that includes two (2) year of management and/or supervision.

ADDITIONAL REQUIREMENTS: Must have at the time of application a combination of two (2) or more of the following certifications: Building, Plumbing, Electrical or Mechanical Inspector, Plans Examiner, Building Official or Code Enforcement. Must have at the time of application an International Code Council (ICC) Certification. Must have at the time of application and must maintain a California driver license. May be exposed to extreme weather conditions, potential physical harm, infectious diseases, hazardous chemicals and/or dangerous machinery. May be required to work outside the traditional work schedule. May be subject to call out and/or call-back.
CITY OF BANNING
CITY COUNCIL REPORT

TO:          CITY COUNCIL

FROM:    Douglas Schulze, City Manager

PREPARED BY: Rochelle Clayton, Deputy City Manager

MEETING DATE: February 26, 2019

SUBJECT:      Adopt a Resolution Approving an Amendment to the City’s Agreement with CalPERS relative to Safety Member Benefits, to allow a 4% Employer Paid Member Contribution for qualifying Safety members of the Banning Police Department.

RECOMMENDATION:

Staff Recommends that the City Council adopt Resolution 2019-XX, approving an amendment to the City’s agreement with CalPERS relative to Safety Member Benefits, to allow a four percent (4%) Employer Paid Member Contribution (“EPMC”) for qualifying Safety members of the Banning Police Department, as approved by Resolution 2018-122.

JUSTIFICATION:

CalPERS shall not accept EPMC without an amendment to the City’s benefit agreement by resolution, in their required format, and requires a written labor policy or agreement which provides for the employer to pay member contributions. The Council approved an amendment to the Memorandums of Understanding with the Banning Police Officer’s Association (“BPOA”) and the Banning Police Management Association (“BPMA”), which defines the agreement between the City and qualifying safety members, which satisfies the agreement requirement. This item is for Council to approve the resolution which will comply with the CalPERS requirement to provide the EPMC benefit.

BACKGROUND:

Resolution 2018-122 was approved on September 25, 2018, authorizing a salary increase of 8.5% for public safety positions of Police Officer, Police Corporal, Police Staff Sergeant, Police Lieutenant, and Police Captain and a benefits increase of 4% permissible EPMC to Non-PEPRA safety member positions.
The 8.5% salary increase was implemented, however staff has been working with PERS to implement the EPMC Benefit.

OPTIONS:

1. Approve Resolution 2019-XX, approving an amendment to the City’s agreement with CalPERS relative to Safety Member Benefits, to allow the 4% EPMC.

2. Provide alternate direction to staff.

FISCAL IMPACT:

The Salary and Benefit increase approved by Council is an approximate $400,000 annual impact to the General Fund, and an estimated $200,000 impact for the remainder of the current Fiscal Year.

ATTACHMENTS:

1. Resolution 2019-XX

2. Resolution 2018-122

Approved by: 

[Signature]

Douglas Schulze, City Manager
ATTACHMENT 1
Resolution 2019-XX
RESOLUTION 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING EMPLOYER PAID MEMBER CONTRIBUTIONS IN THE AMOUNT OF FOUR PERCENT FOR SAFETY MEMBERS OF THE BANNING POLICE DEPARTMENT

WHEREAS, the City Council of the City of Banning has the authority to implement Government Code Section 20691;

WHEREAS, the City Council of the City of Banning has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer;

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Banning of a Resolution to commence said Employer Paid Member Contributions (EPMC);

WHEREAS, the City Council of the City of Banning has identified the following conditions for the purpose of its election to pay EPMC:

- This benefit shall apply to all employees of the Safety Plan and Safety Police Second Tier Plan.
- This benefit shall consist of paying four percent (4%) of the normal member contributions as EPMC.
- The effective date of this Resolution shall be September 24, 2018.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning elects to pay EPMC, as set forth above.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Banning this 26th day of February, 2019.

_________________________
Arthur L. Welch, Mayor
City of Banning

ATTEST:

_________________________
Daryl Betancur, Deputy City Clerk
City of Banning

Resolution 2019-XX
APPROVED AS TO FORM AND LEGAL CONTENT:

______________________________
Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-XX, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2019, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Daryl Betancur, Deputy City Clerk
City of Banning, California
RESOLUTION 2018-122

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A SALARY INCREASE OF EIGHT AND ONE HALF PERCENT AND THE PAYMENT OF FOUR PERCENT OF EMPLOYEE MEMBER CONTRIBUTIONS TO CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION, REFERRED TO AS EMPLOYER PAID MEMBER CONTRIBUTIONS, FOR PUBLIC SAFETY POSITIONS OF THE BANNING POLICE DEPARTMENT

WHEREAS, City of Banning employees have updates to their compensation and benefits from time to time; and

WHEREAS, the compensation and benefit plans for public safety positions needs to be updated to remain competitive to enable recruitment of critical and hard-to-fill positions, and retain existing critical public safety positions; and

WHEREAS, the City now desires to adopt a resolution approving the maximum compensation and a salary increase of 8.5% for the public safety positions of Police Officer, Police Corporal, Police Staff Sergeant, Police Lieutenant, and Police Captain.

WHEREAS, the City now desires to adopt a resolution approving the maximum benefits to include a payment of 4% of employee member contributions to permissible California Public Employees' Retirement Association plans for the public safety positions of Police Officer, Police Corporal, Police Staff Sergeant, Police Lieutenant, and Police Captain positions.

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

SECTION 1. The Banning City Council adopts Resolution 2018-122 approving a salary increase of 8.5% or approximately $3 per hour, and benefits increase in the form of paying 4% Employer Paid Member Contributions ("EPMC") of allowable Public Employee Retirement System ("PERS") employee contributions to police officer and police management positions, to retain and recruit hard to fill critical public safety positions of the Banning Police Department.

SECTION 2. The Interim City Manager or her designee is authorized to make necessary budget adjustments, appropriations and transfers related to the salary and benefits adjustments.

SECTION 3. The Interim City Manager is authorized to reopen and amend the related Memorandums of Understanding.
PASSED, APPROVED AND ADOPTED this 25th day of September, 2018.

George Moyer, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-122, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of September, 2018, by the following vote, to wit:

AYES: Council Members Andrade, Peterson, Welch, and Mayor Moyer

NOES: None

ABSTAIN: None

ABSENT: Council Member Franklin

Sonja De La Fuente, Deputy City Clerk
City of Banning, California
CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Laurie Sampson, Executive Assistant
MEETING DATE: February 26, 2019
SUBJECT: Amendment to the Joint Powers Agreement and Bylaws of the Western Riverside Council of Governments to Make Various Updates

RECOMMENDED ACTION:
That the City Council approve the Amendment to the Joint Powers Agreement and Bylaws of the Western Riverside Council of Governments to make various language updates.

BACKGROUND:
Earlier in 2018, WRCOG was asked by several members of the Executive Committee to research and recommend potential options related to the appointment of alternates for the Board of Supervisors. This topic was discussed at the April 11th and June 13th Administrative and Finance Committee meetings. During the course of these discussions, the issue of a larger update to the WRCOG JPA and Bylaws was also discussed. It was determined that it would be appropriate to conduct a comprehensive review of both documents, as a significant period had lapsed (over 5 years) since the last comprehensive update to the document.

The WRCOG staff and legal counsel conducted a comprehensive review of both documents. Numerous changes were recommended, many of them reflected minor word changes and/or corrections, or address other minor issues. A copy of the red-lined version is attached to this staff report for Council review and the amendments are as follows:
Joint Powers Agreement Changes

1. Sections 2.12, 3.1 and 4.5 of the Agreement updates the JPA to formally recognize that the Treasurer/Auditor of WRCOG is a WRCOG employee appointed pursuant to Section 6505.6 of the Government Code. The language in the current agreement includes outdated language referencing the County Treasurer.

2. Section 2.12 formally adds the position of a Second Vice-Chair to the JPA. Currently the Second Vice-Chair is only listed in the Bylaws.

3. Section 2.4 of the Agreement rewords the language establishing the membership of the General Assembly and Executive Committee to more clearly set forth the voting membership of each Committee. The changes do not impact the current process used by WRCOG. Pursuant to the direction of the Administration and Finance Committee, the process for appointing Executive Committee alternates for the Board of Supervisors has not been revised.

4. Section 2.15 clarifies the bond requirements for WRCOG Committee members.

5. Section 2.13 clarifies that attendance of the Executive Committee members at a standing meeting is subject to the Brown Act.

Bylaws Changes

1. Article I expressly clarifies the relationship between the JPA and Bylaws.

2. Article II, Section 2.F specifically empowers the Chair to create and appoint ad-hoc committees and members in accordance with WRCOG's standard practices.

3. Article III, Section 5, Article IV, Section 1.D, and Article IV, Section 2.D, adds language making the Bylaws consistent with the JPA in respect to which agencies can vote on TUMF matters.

The Executive Committee of the Western Riverside Council of Governments (WRCOG) at their November 5, 2018 meeting adopted Resolution No. 43-18 amending its JPA and Bylaws making a series of technical changes and further directed WRCOG staff to forward the Amendments to the WRCOG member agencies for their approval.

Staff is therefore providing the JPA and Bylaws with all amendments for Council approval. If approved the Mayor will sign the JPA and it will be forwarded to WRCOG.
FISCAL IMPACT:

None.

OPTIONS:

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

ATTACHMENTS:

1. WRCOG Staff Report and redlined JPA Agreement and Bylaws

Approved by:

[Signature]

Douglas Schulze
City Manager
ATTACHMENT 1
WRCOG Staff Report and Red-lined JPA and Bylaws
Western Riverside Council of Governments
Executive Committee

Staff Report

Subject: Update to WRCOG JPA and Bylaws
Contact: Christopher Gray, Director of Transportation, cgray@wrcog.us, (951) 405-6710
Date: November 5, 2018

The purpose of this item is to present an updated version of the WRCOG Joint Powers Agreement (JPA) and Bylaws. These updates were made based on direction at a previous Administration & Finance Committee meeting to prepare this comprehensive update, and incorporates a variety of changes, mostly minor in nature, based on staff and legal counsel review.

Requested Actions:

1. Adopt WRCOG Resolution Number 43-18; A Resolution of the Executive Committee of the Western Riverside Council of Governments Amending its Bylaws Making a Series of Technical Changes.
2. Direct WRCOG to forward the JPA Amendment to WRCOG member agencies for their approval.

Earlier in 2018, WRCOG was asked by several members of the Executive Committee to research and recommend potential options related to the appointment of alternates for the Board of Supervisors. This topic was discussed at the April 11th and June 13th Administration & Finance Committee meetings. During the course of these discussions, the issue of a larger update to the WRCOG JPA and Bylaws was also discussed. It was determined that it would be appropriate to conduct a comprehensive review of both documents as a significant period of time had lapsed (over five years) since the last comprehensive update of these documents.

The items for consideration today are the result of a comprehensive review of both documents by staff and legal counsel. While numerous changes are recommended, many of these changes reflect minor word changes and/or corrections, or address other minor issues. Red-line versions of both documents are attached to this staff report as a reference.

To facilitate review, staff has identified noteworthy changes to the JPA and Bylaws which are discussed below.

Joint Powers Agreement Changes

1. Sections 2.12, 3.1 and 4.5 of the Agreement updates the JPA to formally recognize that the Treasurer / Auditor of WRCOG is a WRCOG employee appointed pursuant to Section 6505.6 of the Government Code. The language in the current agreement includes outdated language referencing the County Treasurer.
2. Section 2.12 formally adds the position of a Second Vice-Chair to the JPA. Currently the Second Vice-Chair is only listed in the Bylaws.
3. Section 2.4 of the Agreement rewords the language establishing the membership of the General Assembly and Executive Committee to more clearly set forth the voting membership of each Committee. The changes do not impact the current process used by WRCOG. Pursuant to the direction of the Administration & Finance Committee, the process for appointing Executive Committee alternates for the Board of Supervisors has not been revised.
4. Section 2.15 clarifies the bond requirements for WRCOG Committee members.
5. Section 2.13 clarifies that the attendance of Executive Committee members at a standing meeting is subject to the Brown Act.

Bylaws Changes

1. Article I expressly clarifies the relationship between the JPA and Bylaws.
2. Article II, Section 2.F specifically empowers the Chair to create and appoint ad hoc committees and members in accordance with WRCOG’s standard practices.
3. Article III, Section 5, Article IV, Section 1.D, and Article IV, Section 2.D, adds language making the Bylaws consistent with the JPA in respect to which agencies can vote on TUMF matters.

Staff also wants to highlight areas where changes were not made to either documents. At previous meetings of the Administration & Finance Committee, there have been extended discussions regarding member representation of the Executive Committee.

The first issue concerns the topic of alternates for the Riverside County Board of Supervisors. Staff previously presented several options for consideration and discussion. Specific direction was provided at the June 13, 2018, meeting to not implement any changes and to maintain the current process for alternates for the Board of Supervisors.

The second issue relates to appointments by member cities to the Executive Committee. Staff and legal counsel also reviewed the overall language in the Bylaws related to the appointment of members to the Executive Committee, which currently states:

“The Executive Committee will be composed of the Mayor from each of the member cities, four members of the Riverside County Board of Supervisors, the President of each water district, and the Tribal Chairman of the Morongo Band of Mission Indians. Any City Council, at its discretion, can appoint a Mayor Pro Tem or other City Council member in place of the Mayor. Each water district Board, at its discretion, can appoint another Board member in place of the President. The Tribal Council of the Morongo Band of Mission Indians, at its discretion, can appoint another Tribal Council member in place of the Tribal Chairman.”

The Administration & Finance Committee centered discussions on whether this section created a potential conflict by noting that the Mayor from any member City was the member of the Executive Committee and then noting that the City Council could appoint a representative in place of the Mayor. Staff and legal counsel reviewed this section and determined that the language seems to clearly note that each City shall have the discretion to establish a process to appoint its own representatives to the Executive Committee. Therefore, no changes were made to the Bylaws related to this item.

Implementation

Approval of the Bylaws requires action by the Executive Committee. Once approved, the Bylaws changes take effect immediately. The updated Bylaws will also be brought forward for approval by the WRCOG General Assembly in 2019; however, this approval is a formality as the changes become effective once the Executive Committee acts on them.

The process to approve the updated JPA is more involved. As with the Bylaws, formal action of the Executive Committee is first required. The updated JPA must then be approved by 2/3 of WRCOG member agencies to take effect. Once 2/3 of WRCOG member agencies have approved these changes, the changes become effective. If directed to do so by the Executive Committee, staff will work with each member agency to secure their approval of the updated JPA.
Prior Actions:

**October 10, 2018:** The Administration & Finance Committee recommended that the Executive Committee 1) approve the updated Bylaws; 2) approve the updated JPA; and 3) direct WRCOG to forward the updated JPA to WRCOG member agencies for their approval.

**June 13, 2018:** The Administration & Finance Committee directed staff to prepare a comprehensive review of the JPA and Bylaws.

**April 11, 2018:** The Administration & Finance Committee directed staff to return with options for future consideration and discussion regarding an alternate policy.

Fiscal Impact:

This item is for informational purposes only; therefore, there is no fiscal impact.

Attachments:

2. Bylaws for the Western Riverside Council of Governments.
3. WRCOG Resolution Number 43-18; A Resolution of the Executive Committee of the Western Riverside Council of Governments Amending the WRCOG Bylaws.
Item 5.C
Update to WRCOG JPA and Bylaws

Attachment 1
Redlined Joint Powers Agreement of the Western Riverside Council of Governments
JOINT POWERS AGREEMENT OF
THE WESTERN RIVERSIDE
COUNCIL OF GOVERNMENTS

This Agreement is made and entered into on the 1st day of April, 1991, pursuant
to Government Code Section 6500 et. seq. and other pertinent provisions of law, by and
between six or more of the cities located within Western Riverside County and the
County of Riverside.

RECITALS

A. Each member and party to this Agreement is a governmental entity
   established by law with full powers of government in legislative, administrative, financial,
   and other related fields.

B. The purpose of the formation is to provide an agency to conduct studies
   and projects designed to improve and coordinate the common governmental
   responsibilities and services on an area-wide and regional basis through the
   establishment of an association of governments. The Council will explore areas of inter-
   governmental cooperation and coordination of government programs and provide
   recommendations and solutions to problems of common and general concern.

C. When authorized pursuant to an Implementation Agreement, the Council
   shall manage and administer thereunder.

NOW, THEREFORE, in consideration of the mutual promises and covenants
herein contained, the parties hereto agree as follows:
I.

PURPOSE AND POWERS

1.1 Agency Created.

There is hereby created a public entity to be known as the "Western Riverside Council of Governments" ("WRCOG" or "the Council"). WRCOG is formed by this Agreement pursuant to the provision of Government Code Section 6500 et. seq. and other pertinent provision of law. WRCOG shall be a public entity separate from the parties hereto.

1.2 Powers.

1.2.1. WRCOG established hereunder shall perform all necessary functions to fulfill the purposes of this Agreement. Among other functions, WRCOG shall:

a. Serve as a forum for consideration, study and recommendation on area-wide and regional problems;

b. Assemble information helpful in the consideration of problems peculiar to Western Riverside County;

c. Explore practical avenues for intergovernmental cooperation, coordination and action in the interest of local public welfare and means of improvements in the administration of governmental services; and

d. Serve as the clearinghouse review body for Federally-funded projects in accordance with Circular A-95 in conjunction with the Southern California Association of Governments.
1.2.2. The Council shall have the power in its own name to do any of the following:

   a. When necessary for the day to day operation of the Council, to make and enter into contracts;

   b. To contract for the services of engineers, attorneys, planners, financial consultants and separate and apart therefrom to employ such other persons, as it deems necessary;

   c. To apply for an appropriate grant or grants under any federal, state, or local programs.

   d. To receive gifts, contributions and donations of property, funds, services and other forms of financial assistance from persons, firms, corporations and any governmental entity;

   e. To lease, acquire, construct, manage, maintain, and operate any buildings, works, or improvements;

   f. To delegate some or all of its powers to the Executive Committee and the Executive Director of the Council as hereinafter provided.

1.2.3 The association shall have the power in its own name, only with the approval of all affected member agencies to:

   a. Acquire, hold and dispose of property by eminent domain, lease, lease purchase or sale.

   b. To incur debts, liabilities, obligations, and issue bonds;

II.

ORGANIZATION OF COUNCIL
2.1 Parties.

The parties to WRCOG shall be the County of Riverside and each city located within Western Riverside County which has executed or hereafter executes this Agreement, or any addenda, amendment, or supplement thereto and agrees to such become a member upon such terms and conditions as established by the General council or Executive Committee, and which has not, pursuant to provisions hereof, withdrawn therefrom (the "Member Agencies"). Only the parties identified in this section and Associate Members approved under section 8.2 of this Agreement, if any, shall be considered contracting parties to this Agreement under Government Code section 6502, provided that the rights of any Associate Member under this Agreement shall be limited solely those rights expressly set forth in a PACE Agreement authorized in section 8.2 of this Agreement.

2.2 Names.

The names, particular capacities and addresses of the parties at any time shall be shown on Exhibit "A" attached hereto, as amended or supplemented from time to time by the Executive Director. If the Executive Director amends or supplements Exhibit "A", a copy of the revised Exhibit "A" shall be provided to the members.

2.3 Duties.

WRCOG shall do whatever is necessary and required to carry out the purposes of this Agreement and when authorized by an Implementation Agreement pursuant to section 1.2.3 as appropriate, to make and enter into such contracts, incur such debts and obligations, assess contributions from the members, and perform such other acts as are necessary to the accomplishment of the purposes of such agreement,
within the provisions of Government Code Section 6500 et seq. and as prescribed by the laws of the State of California.

2.4 **Governing Body.**

2.4.1. WRCOG shall be governed by a General Assembly with membership consisting of the appropriate representatives from the County of Riverside, each city which is a signatory to this Agreement, the Western Municipal Water District, the Eastern Municipal Water District, and the Morongo Band of Mission Indians ("Morongo"), the number of which shall be determined as hereinafter set forth. The collectively, the "General Assembly shall meet at least once annually, preferably scheduled in the evening, Each Member Agencies"). Each General Assembly Member Agency of the General Assembly shall have one vote for each mayor, council member, county supervisor, water district board member, and tribal council member present at the General Assembly. The General Assembly shall act only upon a majority of a quorum. A quorum shall consist of a majority of the total authorized representatives, provided that members representing voting representatives of a majority of the General Assembly Member Agencies are present. The General Assembly shall adopt and amend by-laws for the administration and management of this Agreement, which when adopted and approved shall be an integral part of this Agreement. Such by-laws may provide for the management and administration of this Agreement. The General Assembly shall meet at least once annually, preferably scheduled in the evening.

2.4.2. There shall be an Executive Committee which exercises the powers of this Agreement between sessions of the General Assembly. Members of the Executive Committee shall be the Mayor from each of the member cities, four members
of the Riverside County Board of Supervisors, the President of each Water District, and the Tribal Chairman of Morongo; (the remaining member of the Board of Supervisors shall serve as an alternate, except any "Executive Committee Members"). Each City Council, at its discretion, can appoint its Mayor Pro Tem or other City Council member in place of the Mayor. Each water district board, at its discretion, can appoint another Board member in place of the President, and The Tribal Council of Morongo, at its discretion, can appoint another Tribal Council member in place of the Tribal Chairman. The Executive Committee shall act only upon a majority of a quorum. A quorum shall consist of a majority of the member agencies Executive Committee Members. Membership of Morongo on the General Assembly and Executive Committee of WRCOG shall be conditioned on Morongo entering into a separate Memorandum of Understanding with WRCOG.

2.4.3. Each member of the General Assembly and the Executive Committee shall be a current member of the legislative body such member represents.

2.4.4. Each participating member on the Executive Committee Member shall also have an alternate, who must also be a current member of the legislative body of the party such alternate represents. The remaining member of the Board of Supervisors shall serve as an alternate for the Board of Supervisors. The name of the alternate members shall be on file with the Executive Committee. In the absence of the regular member from an agency, the alternate member from such agency shall assume all rights and duties of the absent regular member.

2.5 Executive Director.
The Executive Director shall be the chief administrative officer of the Council. He shall receive such compensation as may be fixed by the Executive Committee. The powers and duties of the Executive Director shall be subject to the authority of the Executive Committee and include the following:

a. To appoint, direct and remove employees of the Council.

b. Annually to prepare and present a proposed budget to the Executive Committee and General Assembly.

c. Serve as Secretary of the Council General Assembly and of the Executive Committee.

d. To attend meetings of the General Assembly and Executive Committee.

e. To perform such other and additional duties as the Executive Committee may require.

2.6 Principal Office.

The principal office of WRCOG shall be established by the Executive Committee and shall be located within Western Riverside County. The Executive Committee is hereby granted full power and authority to change said principal office from one location to another within Western Riverside County. Any change shall be noted by the Secretary under this section but shall not be considered an amendment to this Agreement.

2.7 Meetings.

The Executive Committee shall meet at the principal office of the agency or at such other place as may be designated by the Executive Committee. The time and place of regular meetings of the Executive Committee shall be determined by
resolution adopted by the Executive Committee; a copy of such resolution shall be furnished to each party hereto. Regular, adjourned and special meetings shall be called and conducted in accordance with the provisions of the Ralph M. Brown Act, Government Code Section 54950 et. seq., as it may be amended.

2.8 Powers and Limitations of the Executive Committee.

Unless otherwise provided herein, each Member or participating alternate of the Executive Committee shall be entitled to one vote, and a vote of the majority of those present and qualified to vote constituting a quorum may adopt any motion, resolution, or order and take any other action they deem appropriate to carry forward the objectives of the Council.

2.9 Minutes.

The secretary of the Council shall cause to be kept minutes of regular adjourned regular and special meetings of the General Assembly and Executive Committee, and shall cause a copy of the minutes to be forwarded to each member and to each of the members hereto.

2.10 Rules.

The Executive Committee may adopt from time to time such rules and regulations for the conduct of its affairs consistent with this Agreement or any Implementation Agreement.

2.11 Vote or Assent of Members.

The vote, assent or approval of the members in any manner as may be required, hereunder shall be evidenced by a certified copy of the action of the governing
body of such party filed with the Council. It shall be the responsibility of the Executive Director to obtain certified copies of said actions.

2.12 Officers.

There shall be selected from the membership of the Executive Committee, a chairperson, a vice chairperson and a second vice chairperson. The Executive Director shall be the secretary. The Treasurer of the County of Riverside shall be the Treasurer of the Council and the Controller or Auditor of the County of Riverside shall be the Auditor of the Council. Such persons and the Auditor shall be appointed by the Executive Director and must be officers or employees of WRCOG. The Executive Director may appoint a single officer or employee of WRCOG to serve in both the Treasurer and Auditor positions. Such person(s) shall possess the powers of, and shall perform the treasurer and auditor functions respectively, for WRCOG and perform those functions required of them by Government Code Sections 6505, 6505.5 and 6505.6, and by all other applicable laws and regulations, including any subsequent amendments thereto.

The chairperson and vice chairperson; and second vice chairperson shall hold office for a period of one year commencing July 1st of each and every fiscal year; provided, however, the first chairperson and vice chairperson appointed shall hold office from the date of appointment to June 30th of the ensuing fiscal year at the close of the General Assembly meeting of their election, and ending one year thereafter, or until his or her successor is elected. Except for the Executive Director, any officer, employee, or agent of the Executive Committee may also be an officer, employee, or agent of any of
the members. The appointment by the Executive Committee of such a person shall be evidence that the two positions are compatible.

2.13 Committees.

The Executive Committee may, as it deems appropriate, appoint establish committees to accomplish the purposes set forth herein. All standing committee meetings of WRCOG, including those of the Executive Committee, shall be open to all Executive Committee Members, in accordance with the Brown Act.

2.14 Additional Officers and Employees.

The Executive Committee shall have the power to authorize such additional officers and employees as may be appropriate. Such officers and employees may also be, but are not required to be, officers and employees of the individual members.

2.15 Bonding Requirement.

The officers or persons who have charge of, handle, or have access to any property of WRCOG shall be the members of the Executive Committee, the Treasurer, the Executive Director, and any other officers or persons to be designated or empowered by the Executive Committee. Each such officer or person shall be required to file an official bond with the Executive Committee in an amount which shall be established by the Executive Committee. Should the existing bond or bonds of any such officer be extended to cover the obligations provided herein, said bond shall be the official bond required herein. The premiums on any such bonds attributable to the coverage required herein shall be appropriate expenses of WRCOG.

2.16 Status of Officers and Employees.
All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, worker's compensation, and other benefits which apply to the activity of officers, agents, or employees of any of the members when performing their respective functions shall apply to them to the same degree and extent while engaged in the performance of any of the functions and other duties under this Agreement. None of the officers, agents, or employees appointed by the Executive Committee shall be deemed, by reason of their employment by the Executive Committee, to be employed by any of the members or, by reason of their employment by the Executive Committee, to be subject to any of the requirements of such members.

2.17 Restrictions.

Pursuant to Government Code Section 6509, for the purposes of determining the restrictions to be imposed by the Council in its exercise of the above-described joint powers, reference shall be made to, and the Council shall observe, the restrictions imposed by state law upon the County of Riverside.

2.18 TUMF Matters – Water Districts and Morongo.

Pursuant to this Joint Powers Agreement, WRCOG administers the Transportation Mitigation Fee (“TUMF”) for cities in Western Riverside County. The fee was established prior to the Water District’s and Morongo’s involvement with WRCOG and will fund transportation improvements for the benefit of the County of Riverside and the cities in Western Riverside County. As such, the Western Municipal Water District, the Eastern Municipal Water District, and Morongo General Assembly and Executive
Committee Members shall not vote on any matter related to the administration of the TUMF program or the expenditure of TUMF revenues.

III

FUNDS AND PROPERTY

3.1 Treasurer.

The Treasury of the member agency whose Treasurer is the Treasurer for WRCOG shall be the depository for WRCOG. The Treasurer of the Council shall have custody of all funds and shall provide for strict accountability thereof in accordance with Government Code Section 6505.5 and other applicable laws of the State of California. He or she shall perform all of the duties required in Government Code Section 6505 et seq., and following—such other duties as may be prescribed by the Executive Committee.

3.2 Expenditure of Funds.

The funds under this Agreement shall be expended only in furtherance of the purposes hereof and in accordance with the laws of the State of California and standard accounting practices shall be used to account for all funds received and disbursed.

3.3 Fiscal Year.

WRCOG shall be operated on a fiscal year basis, beginning on July 1 of each year and continuing until June 30 of the succeeding year. Prior to July 1 of each year, the General Assembly shall adopt a final budget for the expenditures of WRCOG during the following fiscal Year.

3.4 Contributions/Public Funds.
In preparing the budget, the General Assembly by majority vote of a quorum shall determine the amount of funds which will be required from its members for the purposes of this Agreement. The funds required from its members after approval of the final budget shall be raised by contributions 50% of which will be assessed on a per capita basis and 50% on an assessed valuation basis, each city paying on the basis of its population and assessed valuation and the County paying on the basis of the population and assessed valuation within the unincorporated area of Western Riverside County as defined in the by-laws. The parties, when informed of their respective contributions, shall pay the same before August 1st of the fiscal year for which they are assessed or within sixty days of being informed of the assessment, whichever occurs later. In addition to the contributions provided, advances of public funds from the parties may be made for the purposes of this Agreement. When such advances are made, they shall be repaid from the first available funds of WRCOG.

The General Assembly shall have the power to determine that personnel, equipment or property of one or more of the parties to the Agreement may be used in lieu of fund contributions or advances.

All contributions and funds shall be paid to WRCOG and shall be disbursed by a majority vote of a quorum of the Executive Committee, as authorized by the approved budget.

3.5 Contributions from Water Districts and the Morongo Band of Mission Indians.

The provision of section 3.4 above shall be inapplicable to the Western Municipal Water District, the Eastern Municipal Water District, and Morongo. The amount of
contributions from these water districts and Morongo shall be through the WRCOG budget process.

IV

BUDGETS AND DISBURSEMENTS

4.1 Annual Budget.

The Executive Committee may at any time amend the budget to incorporate additional income and disbursements that might become available to WRCOG for its purposes during a fiscal year.

4.2 Disbursements.

The Executive Director shall request warrants from the Auditor in accordance with budgets approved by the General Assembly or Executive Committee subject to quarterly review by the Executive Committee. The Treasurer shall pay such claims or disbursements and such requisitions for payment in accordance with rules, regulations, policies, procedures and bylaws adopted by the Executive Committee.

4.3 Accounts.

All funds will be placed in appropriate accounts and the receipt, transfer, or disbursement of such funds during the term of this Agreement shall be accounted for in accordance with generally accepted accounting principles applicable to governmental entities and pursuant to Government Code Sections 6505 et seq. and any other applicable laws of the State of California. There shall be strict accountability of all funds. All revenues and expenditures shall be reported to the Executive Committee.

4.4 Expenditures Within Approved Annual Budget.
All expenditures shall be made within the approved annual budget. No expenditures in excess of those budgeted shall be made without the approval of a majority of a quorum of the Executive Committee.

4.5 Audit.

The records and accounts of WRCOG shall be audited annually by an independent certified public accountant or public accountant to make an annual audit of WRCOG's accounts and records, and copies of such audit report shall be filed with the County Auditor, State Controller and each party to WRCOG no later than fifteen (15) days after receipt of said audit by the Executive Committee. The Auditor shall perform those functions required of him or her by Government Code Sections 6505, 6505.5 and 6505.6, and by all other applicable laws and regulations, including any subsequent amendments thereto.

4.6 Reimbursement of Funds.

Grant funds received by WRCOG from any federal, state, or local agency to pay for budgeted expenditures for which WRCOG has received all or a portion of said funds from the parties hereto shall be used as determined by WRCOG's Executive Committee.

V

LIABILITIES

5.1 Liabilities.

The debts, liabilities, and obligation of WRCOG shall be the debts, liabilities, or obligations of WRCOG alone and not of the parties to this Agreement.

5.2 Hold Harmless and Indemnity.
Each party hereto agrees to indemnify and hold the other parties harmless from all liability for damage, actual or alleged, to persons or property arising out of or resulting from negligent acts or omissions of the indemnifying party or its employees. Where the General Assembly or Executive Committee itself or its agents or employees are held liable for injuries to persons or property, each party's liability for contribution or indemnity for such injuries shall be based proportionately upon the contributions (less voluntary contributions) of each member. In the event of liability imposed upon any of the parties to this Agreement, or upon the General Assembly or Executive Committee created by this Agreement, for injury which is caused by the negligent or wrongful act or omission of any of the parties in the performance of this Agreement, the contribution of the party or parties not directly responsible for the negligent or wrongful act or omission shall be limited to One Hundred Dollars ($100.00). The party or parties directly responsible for the negligent or wrongful acts or omissions shall indemnify, defend, and hold all other parties harmless from any liability for personal injury or property damage arising out of the performance of this Agreement. The voting for or against a matter being considered by the General Assembly or executive or other committee or WRCOG, or abstention from voting on such matter, shall not be construed to constitute a wrongful act or omission within the meaning of this Subsection.

VI

ADMISSION AND WITHDRAWAL OF PARTIES

6.1 Admission of New Parties.

It is recognized that additional cities other than the original parties, may wish to participate in WRCOG. Any Western Riverside County city may become a party
to WRCOG upon such terms and conditions as established by the General Assembly or Executive Committee. Any Western Riverside County city shall become a party to WRCOG by the adoption by the city council of this Agreement and the execution of a written addendum thereto agreeing to the terms of this Agreement and agreeing to any additional terms and conditions that may be established by the General Assembly or Executive Committee. Special districts which are significantly involved in regional problems and the boundaries of which include territory within the collective area of the membership shall be eligible for advisory membership in the Council by the execution of a separate MOU setting forth the terms of such participation. The representative of any such advisory member may participate in the work of committees of the Council.

6.2 Withdrawal from WRCOG.

It is fully anticipated that each party hereto shall participate in WRCOG until the purposes set forth in this Agreement are accomplished. The withdrawal of any party, either voluntary or involuntary, unless otherwise provided by the General Assembly or Executive Committee, shall be conditioned as follows:

a. In the case of a voluntary withdrawal following a properly noticed public hearing, written notice shall be given to WRCOG, six months prior to the effective date of withdrawal;

b. Withdrawal shall not relieve the party of its proportionate share of any debts or other liabilities incurred by WRCOG prior to the effective date of the party's notice of withdrawal;
c. Unless otherwise provided by a unanimous vote of the Executive Committee, withdrawal shall result in the forfeiture of that party's rights and claims relating to distribution of property and funds upon termination of WRCOG as set forth in Section VII below;

d. Withdrawal from any Implementation Agreement shall not be deemed withdrawal from membership in WRCOG.

VII
TERMINATION AND DISPOSITION OF ASSETS

7.1 Termination of this Agreement.

WRCOG shall continue to exercise the joint powers herein until the termination of this Agreement and any extension thereof or until the parties shall have mutually rescinded this Agreement; providing, however, that WRCOG and this Agreement shall continue to exist for the purposes of disposing of all claims, distribution of assets and all other functions necessary to conclude the affairs of WRCOG.

Termination shall be accomplished by written consent of all of the parties, or shall occur upon the withdrawal from WRCOG of a sufficient number of the agencies enumerated herein so as to leave less than five of the enumerated agencies remaining in WRCOG.

7.2 Distribution of Property and Funds.

In the event of the termination of this Agreement, any property interest remaining in WRCOG following the discharge of all obligations shall be disposed of as the Executive Committee shall determine with the objective of distributing to each
remaining party a proportionate return on the contributions made to such properties by such parties, less previous returns, if any.

VIII

PACE IMPLEMENTATION AND PARTICIPATION AGREEMENTS;

ASSOCIATE MEMBERSHIP

8.1 Execution of Agreement.

When authorized by the Executive Committee, any affected member agency or agencies enumerated herein, may execute an Implementation Agreement for the purpose of authorizing WRCOG to implement, manage and administer area-wide and regional programs in the interest of the local public welfare. The costs incurred by WRCOG in implementing a program including indirect costs, shall be assessed only to those public agencies who are parties to that Implementation Agreement.

8.2 PACE Agreements; Associate Membership.

WRCOG shall be empowered to establish and operate one or more Property Assessed Clean Energy ("PACE") programs pursuant to Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code, and to enter into one or more agreements, including without limitation, participation agreements, implementation agreements and joint powers agreements and amendments thereto to fulfill such programs both within and outside the jurisdictional boundaries of WRCOG.

WRCOG, acting through its Executive Committee, shall be empowered to establish an "Associate Member" status that provides membership in WRCOG to local jurisdictions that are outside WRCOG’s jurisdictional boundaries but within whose
boundaries a PACE program will be established and implemented by WRCOG. Said local jurisdictions shall become Associate Members of WRCOG by adopting one or more agreements (the “PACE Agreement”) on the terms and conditions established by the Executive Committee and consistent with the requirements of the Joint Exercise of Powers Act, being 5 of Division 7, Title 1 of the California Government Code (Sections 6500 et seq.). The rights of Associate Members shall be limited solely to those terms and conditions expressly set forth in the PACE Agreement for the purposes of implementing the PACE program within their jurisdictional boundaries. Except as expressly provided for by the PACE Agreement, Associate Members shall not have any rights otherwise granted to WRCOG’s members by this Agreement, including but not limited to the right to vote, right to amend this Agreement, and right to sit on committees or boards established under this Agreement or by action of the Executive Committee or the General Assembly, including, without limitation, the General Assembly and the Executive Committee.

IX

MISCELLANEOUS

9.1 Amendments.

This Agreement may be amended with the approval of not less than two-thirds (2/3) of all member agencies.
9.2 **Notice.**

Any notice or instrument required to be given or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to the addresses of the parties as shown on Exhibit "A", shall be deemed to have been received by the party to whom the same is addressed at the expiration of seventy-two (72) hours after deposit of the same in the United States Post Office for transmission by registered or certified mail as aforesaid.

9.3 **Effective Date.**

This Agreement shall be effective and WRCOG shall exist from and after such date as this Agreement has been executed by any seven or more of the public agencies, including the County of Riverside, as listed on page 1 hereof.
9.4 Arbitration.

Any controversy or claim between any two or more parties to this Agreement, or between any such party or parties and WRCOG, with respect to disputes, demands, differences, controversies, or misunderstandings arising in relation to interpretation of this Agreement, or any breach thereof, shall be submitted to and determined by arbitration. The party desiring to initiate arbitration shall give notice of its intention to arbitrate to every other party to this Agreement and to the Executive Director of the Council. Such notice shall designate as "respondents" such other parties as the initiating party intends to have bound by any award made therein. Any party not so designated but which desires to join in the arbitration may, within ten (10) days of service upon it of such notice, file with all other parties and with the Executive Director of the Council a response indicating its intention to join in and to be bound by the results of the arbitration, and further designating any other parties it wishes to name as a respondent. Within twenty (20) days of the service of the initial demand for arbitration, the initiating party and the respondent or respondents shall each designate a person to act as an arbitrator. The designated arbitrators shall mutually designate the minimal number of additional persons as arbitrators as may be necessary to create an odd total number of arbitrators but not less than three to serve as arbitrator(s).

The arbitrators shall proceed to arbitrate the matter in accordance with the provisions of Title 9 of Part 3 of the Code of Civil Procedure, Section 1280 et. seq. The parties to this Agreement agree that the decision of the arbitrators will be binding and will not be subject to judicial review except on the ground that the arbitrators have exceeded the scope of their authority.
9.5 **Partial Invalidity.**

If any one or more of the terms, provisions, sections, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, sections, promises, covenants and conditions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

9.6 **Successors.**

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto.

9.7 **Assignment.**

The parties hereto shall not assign any rights or obligations under this Agreement without written consent of all other parties.

9.8 **Execution.**

The Board of Supervisors of the County of Riverside and the city councils of the cities enumerated herein have each authorized execution of this Agreement as evidenced by the authorized signatures below, respectively.
EXHIBIT “A”

Original Members Agencies

1. City of Banning
2. City of Beaumont (rejoined June 22, 2017)
3. City of Calimesa
4. City of Canyon Lake
5. City of Corona
6. City of Hemet
7. City of Lake Elsinore
8. City of Moreno Valley
9. City of Murrieta
10. City of Norco
11. City of Perris
12. City of Riverside
13. City of San Jacinto
14. City of Temecula
15. County of Riverside

Additional City Members

1. City of Eastvale (added on 08/02/2010, Resolution 01-11)
2. City of Jurupa Valley (added on 07/29/2011, Resolution 02-12)
3. City of Menifee (added on 10/06/2008, Resolution 03-09)
4. City of Wildomar (added on 08/04/2008, Resolution 01-09)
For Reference Only

THE WESTERN RIVERSIDE
COUNCIL OF GOVERNMENTS

Participating Agencies

1. Eastern Municipal Water District (membership on the Governing Board of WRCOG, 05/11/2009)
2. Western Municipal Water District (membership on the Governing Board of WRCOG, 05/11/2009)
3. Riverside County Superintendent of Schools (membership as an ex-officio, advisory member of WRCOG, 11/07/2011)
ATTEST:
Clerk of the Board of Supervisors
By: ____________________________
Dated: _________________________

COUNTY OF RIVERSIDE
By: ____________________________
Chairman, Board of Supervisors

ATTEST:
City Clerk
City of Banning
By: ____________________________
Dated: _________________________

CITY OF BANNING
By: ____________________________
Mayor

ATTEST:
City Clerk
City of Beaumont
By: ____________________________
Dated: _________________________

CITY OF BEAUMONT
By: ____________________________
Mayor

ATTEST:
City Clerk
City of Calimesa
By: ____________________________
Dated: _________________________

CITY OF CALIMESA
By: ____________________________
Mayor
ATTEST:
City Clerk
City of Jurupa Valley
By: ____________________________
Dated: ________________________

CITY OF JURUPA VALLEY
By: ____________________________
Mayor

ATTEST:
City Clerk
City of Lake Elsinore
By: ____________________________
Dated: ________________________

CITY OF LAKE ELSINORE
By: ____________________________
Mayor

ATTEST:
City Clerk
City of Menifee
By: ____________________________
Dated: ________________________

CITY OF MENIFEET
By: ____________________________
Mayor

ATTEST:
City Clerk
City of Moreno Valley
By: ____________________________
Dated: ________________________

CITY OF MORENO VALLEY
By: ____________________________
Mayor
ATTEST:
City Clerk
City of Murrieta

By: _______________________
Dated: ____________________

CITY OF MURRIETA

By: _______________________
Mayor

ATTEST:
City Clerk
City of Norco

By: _______________________
Dated: ____________________

CITY OF NORCO

By: _______________________
Mayor

ATTEST:
City Clerk
City of Perris

By: _______________________
Dated: ____________________

CITY OF PERRIS

By: _______________________
Mayor

ATTEST:
City Clerk
City of Riverside

By: _______________________
Dated: ____________________

CITY OF RIVERSIDE

By: _______________________
Mayor
ATTEST:
City Clerk
City of San Jacinto
By: __________________________
Dated: ________________________

CITY OF SAN JACINTO

By: __________________________
Mayor

ATTEST:
City Clerk
City of Temecula
By: __________________________
Dated: ________________________

CITY OF TEMECULA

By: __________________________
Mayor

ATTEST:
City Clerk
City of Wildomar
By: __________________________
Dated: ________________________

CITY OF WILDOMAR

By: __________________________
Mayor

ATTEST:
Council Recording Secretary
Morongo Band of Mission Indians
By: __________________________
Dated: ________________________

MORONGO BAND OF MISSION INDIANS

By: __________________________
Tribal Chairman
CITY OF BANNING  
CITY COUNCIL REPORT

TO:     CITY COUNCIL
FROM:   Douglas Schulze, City Manager
PREPARED BY: Heidi Meraz, Community Services Director
MEETING DATE: February 26, 2109
SUBJECT: Resolution 2019-XX, Approving the Memorandum of Understanding (MOU) between the City of Banning and the City of Beaumont for Free Fare Promotion

RECOMMENDATION:

That City Council adopt Resolution 2019-XX, approving a MOU between the City of Banning and the City of Beaumont defining record keeping, billing, reimbursement and the respective role of each agency with regards to the “Free Fare Promotion” that will be offered throughout the both cities fixed-route and commuter link services.

JUSTIFICATION:

The City of Beaumont is currently operating a fixed-route bus on Ramsey Street from Highland Springs Avenue to Hathaway Street, then proceeding on Interstate 10 to the Morongo Casino. Should Beaumont offer free fares and include the six miles that are operated in Banning’s service area it is believed that passengers would wait for the Beaumont bus, as opposed to riding the Banning bus which services the same corridor. To avoid confusion for the passengers and to eliminate impact to Banning’s farebox recovery, Beaumont Transit will be including Banning Transit routes in the scope of their Low Carbon Transportation Operations Program (LCTOP) corrective action plan for funds previously awarded in FY 15/16.

BACKGROUND:

The City of Beaumont secured $63,619 in LCTOP grant funding in FY 15/16 which was not able to be used as originally intended. The funding is set to expire June 30, 2019 and any funds not expended will have to be returned to the LCTOP.
OPTIONS:

1. Adopt Resolution 2019-XX, approving the Memorandum of Understanding between the City of Banning and the City of Beaumont.

2. Reject Resolution 2019-XX

ATTACHMENTS:

1. Resolution 2019-XX
2. MOU

Approved by:

[Signature]

Douglas Schulze
City Manager
ATTACHMENT 1
Resolution 2019-XX
RESOLUTION 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITIES OF BANNING AND BEAUMONT FOR THE FREE FARE PROMOTION MADE AVAILABLE THROUGH LOW CARBON OPERATIONS PROGRAM (LCTOP) FUNDS

WHEREAS, LCTOP was created to provide operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility, with a priority on serving disadvantaged communities;

WHEREAS, LCTOP is administered by the California Department of Transportation (Caltrans) in coordination with the California Air Resources Board and the State Controller’s Office;

WHEREAS, Beaumont secured LCTOP grant funding in the amount of $63,619 in FY2016 and has coordinated with Caltrans to join this funding with an already approved project of Free Fare Promotion;

WHEREAS, to benefit all Pass Transit passengers, Beaumont and Banning will work together to offer free fare to all passengers (excluding Dial A Ride) to promote the use of public transportation and to “Try Something Different, Try Transit”;

WHEREAS, Caltrans has approved the inclusion of all Pass Transit passengers into the scope of the project to offer free fare;

WHEREAS, Free Fare Promotion will be an advertised and coordinated effort to promote the use of public transportation throughout the Pass Transit system from March 1 to May 31, 2019, or until funding is exhausted;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BANNING AS FOLLOWS:

SECTION 1. That the Mayor is authorized to execute the MOU with the City of Beaumont allowing participation in a Free Fare Promotion for Banning Transit fixed and commuter routes
PASSED, APPROVED AND ADOPTED this 26th day of February 2019.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM
AND A LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution no. 2019-XX, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2019, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

______________________________
Daryl Betancur, Deputy City Clerk
City of Banning, California
ATTACHMENT 2

MOU
Memorandum of Understanding
City of Beaumont and City of Banning
Free Fare Promotion

This Memorandum of Understanding (MOU) is entered into and effective this ____ day of __________, 2019, among the City of Beaumont and the City of Banning, to cooperatively participate in Free Fare Promotion made possible by Low Carbon Transportation Operation (LCTOP) grant funded through the State of California. The undersigned City of Beaumont is referred to herein as “Beaumont”, and the undersigned City of Banning is referred to herein as “Banning.”

RECATALS

WHEREAS, LCTOP was created to provide operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility, with a priority on serving disadvantaged communities;

WHEREAS, LCTOP is administered by the California Department of Transportation (Caltrans) in coordination with the California Air Resources Board and the State Controller’s Office;

WHEREAS, Beaumont secured LCTOP grant funding in the amount of $63,619 in FY2016 and has coordinated with Caltrans to join this funding with an already approved project of Free Fare Promotion; The FY funding will expire in June 2019 and if not expended fully will have to be returned to Caltrans;

WHEREAS, to benefit all Pass Transit passengers, Beaumont and Banning will work together to offer free fare to all passengers (excluding Dial A Ride) to promote the use of public transportation and to “Try Something Different, Try Transit”;

WHEREAS, Caltrans has approved the inclusion of both Beaumont Pass Transit and Banning Pass Transit fixed and commuter routes into the scope of the project to offer free fare;

WHEREAS, Free Fare Promotion will be an advertised and coordinated effort to promote the use of public transportation throughout both the Beaumont Pass Transit and the Banning Pass Transit systems from March 1 to May 31, 2019, or until funding is exhausted;

NOW, THEREFORE IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS PROVIDED FOR HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

Section I
Roles of Banning

1.1 Weekly meetings with Beaumont to go over project status and accounting. Estimates for Free Fare Promotion completion date (May 31, 2019) will be confirmed or adjusted depending on actual expenses applied to the grant funding.

1.2 Free Fare Promotion last day shall be May 31, 2019, or the point in time at which funding is exhausted.
1.3 Banning will provide copies of original driver generated trip sheets (passenger count sheets) to Beaumont on a bi-weekly basis.

1.4 Banning will also provide Beaumont with digital spreadsheet of the same trip sheet information specified in 1.3 above

1.5 Banning will provide Beaumont a monthly invoice reflecting the weekly trip sheet information detailing the amount of General Passengers at $1.15, amount of Senior/Disabled/Veteran passengers at $.65, and amount of Cabazon Zone Passengers at $.25 as part of the Free Fare Promotion.

1.6 Beaumont is not responsible for payment of passenger fares after Free Fare Promotion completion date (May 31, 2019 or a predetermined adjusted completion date as stated in 1.1 above).

1.7 Dial A Ride is not part of the Free Fare Promotion.

Section 2

Roles of Beaumont

2.1 Weekly meetings with Banning to go over project status and accounting.

2.2 Beaumont will consolidate and report to Caltrans all Pass Transit passenger count information.

2.3 Beaumont will reimburse Banning for passenger fares within the scope of Free Fare Promotion within 15 days of receipt of each monthly invoice provided by Banning pursuant to 1.5 above.

2.4 Beaumont will be the record keeper of all passenger farebox and expenses applied to the grant and will maintain the records for auditing purposes.

2.5 Beaumont will conduct all marketing and advertising for the Free Fare Project at no cost to Banning.
IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their duly authorized representatives.

City of Beaumont

By: ___________________________ Date: ___________________________
   Julio Martinez
   Mayor

Approved as to Form:

   ___________________________ Date: ___________________________
   Steven Mehlman
   City Clerk

City of Banning

By: ___________________________ Date: ___________________________
   Arthur L. Welch
   Mayor

Attest: ___________________________ Date: ___________________________
   Daryl Betancur, Deputy City Clerk
   City of Banning

Approved as to Form and Legal Content:

   ___________________________ Date: ___________________________
   Kevin G. Ennis, City Attorney
   Richards, Watson & Gershon
TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Ted Shove, Economic Development Manager

MEETING DATE: February 26, 2019


RECOMMENDED ACTION:

That the City Council Adopt Resolution No. 2019-XX:

1. Approving the "Agreement for the Purchase of Certain Real Property Interests from Real Property at 1909 E. Ramsey Street (APN: 532-120-011)";

2. Authorize the City Manager to execute the Agreement for Purchase and Sale and Escrow Instructions and Certificate of Acceptance for portions of APN 532-120-011; and

3. Authorize Administrative Services Director to make necessary budget adjustments and appropriations for FY 2018.

BACKGROUND:

Under the City's Capital Improvement Program, the Ramsey and Hathaway Street Widening project has concluded design and engineering work. The project, as planned and designed, will improve circulation in this area of the City and will widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. Widening will also occur along Hathaway Street from Ramsey Street approximately 1,400 feet north. Further, the project will construct a new 12-inch ductile iron water line along Ramsey Street. The construction of the project will require the acquisition of right of way in order to be completed.
City staff has held several meetings to discuss the project with property owners in the area and most would only consider right-of-way dedication in exchange for compensation. Prior to acquisition, the City determined fair market value for the necessary right of way required. Values established through the appraisal process, by a state licensed real estate appraiser provide a justification and amount for establishing compensation in exchange for the right-of-way dedications.

In total, the Hathaway and Ramsey Street Widening project consists of eleven parcels and seventeen separate right of way sections within those parcels. Humberto and Eulogia R. Ramirez, as Co-Trustees of the Humberto and Eulogia R. Ramirez Family Living Trust u/a dated May 29, 2013 have agreed to terms based upon the appraised value which includes acquisition of approximately 2,490 square feet for the permanent use as a roadway and an approximate 1,358 square feet Temporary Construction Easement ("TCE") for a term of nine months. The total appraised value for both the permanent dedication and TCE as $11,425. Staff is also requesting funds not to exceed $2,000 for associated escrow and title services, totaling $13,425.

**FISCAL IMPACT:**

The purchase price is $11,425 plus escrow and title charges not to exceed $2,000 for a total expenditure of up to $13,425. Funds to be sourced from Account 841-9500-490.93-30.

**ATTACHMENTS:**

1. Resolution 2019-XX
2. Purchase and Sale and Escrow Instructions Agreement – Partially Executed

Approved by:

[Signature]

Douglas Schulze
City Manager
ATTACHMENT 1
Resolution 2019-XX
RESOLUTION 2019-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AN AGREEMENT FOR THE PURCHASE OF CERTAIN REAL PROPERTY INTERESTS FROM THE REAL PROPERTY AT 1909 E. RAMSEY STREET, BANNING (APN 532-120-011)

WHEREAS, the City of Banning seeks to construct the Ramsey-Hathaway Street Improvement Project ("Project") to improve circulation in this area of the City. The Project, as planned and designed, will widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project will also widen Hathaway Street from Ramsey Street approximately 1,400 feet north. Further, the Project will construct a new 12-inch ductile iron water line along Ramsey Street; and

WHEREAS, the Property requires the acquisition of certain property interests from eleven larger parcels; and

WHEREAS, on November 8, 2018, the City extended to the record owner, Humberto Ramirez and Eulogia R. Ramirez, as Co-Trustees of the Humberto and Eulogia R. Ramirez, as Co-Trustees of the Humberto and Eulogia R. Ramirez Family Living Trust, u/a dated May 29, 2013, a written offer pursuant to Government Code Section 7267.2 to purchase an approximate 2,490 square foot fee portion ("Subject Fee Property") of the real property located at 1909 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor’s Parcel Number 532-120-011 ("Ramirez Family Trust Parcel") for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto. The City also offered to purchase an approximate 1,358 square foot temporary construction easement on the Ramirez Family Trust Parcel for a term of nine months ("TCE") to help facilitate the City’s construction of the Project. The Subject Fee Property and TCE are more particularly described in the exhibits to the Agreement for Purchase and Sale and Escrow Instructions attached as Attachment 2 to the staff report. The City’s offer was based on the fair market value estimate determined by the City’s independent appraiser; and

WHEREAS, the record owner has accepted the City’s offer to purchase the Subject Fee Property and the TCE; and

WHEREAS, the City studied the environmental effects of the subject road widening Project in accordance with the California Environmental Quality Act ("CEQA"). Pursuant to Section 15301 of Article 19 (Categorical Exemptions) of the State CEQA Guidelines, City Staff found that the Project is exempt from CEQA because it involves minor alterations of existing public streets, sidewalks, gutters, and related facilities with negligible expansion.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:
SECTION 1. The Banning City Council adopts Resolution 2019-XX approving the Agreement for Purchase and Sale and Escrow Instructions between City of Banning and Humberto Ramirez and Eulogia R. Ramirez, as Co-Trustees of the Humberto and Eulogia R. Ramirez, as Co-Trustees of the Humberto and Eulogia R. Ramirez Family Living Trust, u/a dated May 29, 2013 in Connection with the Ramsey-Hathaway Street Improvement Project (Portions of APN 532-120-011) for the purchase of the Subject Fee Property and the TCE for the sum of $11,425. A copy of the Agreement is attached as Attachment 2 to the staff report that accompanies this Resolution. This approval of the Agreement is not an announcement of the City’s intent to acquire any other real property interests for the Project and does not commit the City to acquire any other real property interests for the Project.

SECTION 2. The environmental effects of the Project, including the acquisition of the Subject Fee Property and the TCE, were studied as an integral part of the environmental review for the Project. The City Council concurs with City Staff’s determination that the Project qualifies as exempt from CEQA pursuant to Section 15103 of the State CEQA Guidelines because the Project involves minor alterations to existing public streets. The City Council directs City staff to file a Notice of Exemption in connection with this Project in accordance with CEQA.

SECTION 3. The City Manager is authorized to execute the Agreement, in substantially the form attached as Attachment 2 to the staff report that accompanies the Resolution, the TCE Agreement in substantially the form attached as an exhibit to the Agreement, Certificate of Acceptance, escrow documents, and any such documents or instruments that are necessary to effect the transfer of property interests contemplated in the Agreement or to memorialize any necessary extension of the term of the TCE as provided for in the TCE Agreement.

SECTION 4. The Administrative Services Director is authorized to make necessary budget adjustments, appropriations and transfers to effectuate the property transactions contemplated in the Agreement, including but not limited to the payment of the Purchase Price of $11,425, compensation for any necessary extension of the term of the TCE in accordance with the TCE Agreement, and escrow-related charges, which are not estimated to exceed $2,000.

SECTION 5. The City Clerk shall certify the adoption of this Resolution and shall cause a certified resolution to be filed in the book of original resolutions.  

PASSED, APPROVED AND ADOPTED this 26th day of February, 2019.

Arthur L. Welch, Mayor
City of Banning
ATTEST:

Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-XX, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2019, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Daryl Betancur, Deputy City Clerk
City of Banning, California
ATTACHMENT 2
Purchase and Sale and
Escrow Instructions
Agreement- Partially
Executed

THIS AGREEMENT FOR PURCHASE AND SALE AND ESCROW INSTRUCTIONS BETWEEN THE CITY OF BANNING AND HUMBERTO RAMIREZ AND EULOGIA R. RAMIREZ, AS CO-TRUSTEES OF THE HUMBERTO AND EULOGIA R. RAMIREZ FAMILY LIVING TRUST, U/A DATED MAY 29, 2013 IN CONNECTION WITH RAMSEY-HATHAWAY STREET IMPROVEMENT PROJECT (PORTIONS OF APN 532-120-011) (“Agreement”) is entered into by and between the CITY OF BANNING, a municipal corporation (“Buyer” or “City”), and (“Seller”) and HUMBERTO RAMIREZ AND EULOGIA R. RAMIREZ, AS CO-TRUSTEES OF THE HUMBERTO AND EULOGIA R. RAMIREZ FAMILY LIVING TRUST, U/A DATED MAY 29, 2013 constitutes an agreement to purchase and sell certain real property interests between Seller and Buyer and the joint escrow instructions directed to Sentry Escrow Service, Inc., attention Judy A. Russell, President (“Escrow Holder”). Seller and Buyer are referred to below collectively as the “Parties”. The Agreement is effective on the date it is fully executed by the Parties (“Effective Date”). Upon execution of this Agreement by Buyer, Buyer shall promptly deliver a copy of this executed Agreement to Seller.

RECITALS

A. Seller is the owner of that certain real property located at 1909 E. Ramsey Street, in the City of Banning, California, and identified as Riverside County Tax Assessor’s Parcel Number 532-120-011 (“Larger Parcel”). The Larger Parcel is approximately 0.35 acres (15,073 square feet) in size and consists of a vacant commercial lot located on the north side of E. Ramsey Street, east of N. Hathaway Street.

B. City seeks to construct the Ramsey-Hathaway Street Improvement Project (“Project”) to improve circulation in this area of the City. The Project, as planned and designed, will widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project will also widen Hathaway Street from Ramsey Street approximately 1,400 feet north. Further, the Project will construct a new 12-inch ductile iron water line along Ramsey Street.

C. City extended to Seller a written offer dated November 8, 2018 pursuant to Government Code Section 7267.2 to purchase in fee an approximate 2,490 square foot portion of the Larger Parcel (“Subject Fee Property”) for public use, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto in connection with the City’s proposed construction of the Project. The approximate 2,490 square foot Subject Fee Property that the City seeks to acquire in fee is described more particularly on Exhibit “A” hereto and depicted on Exhibit “B” hereto, which are incorporated herein by this reference. The City also offered to purchase an approximate 1,358 square foot temporary construction easement for a term of nine months (“TCE”) to facilitate the construction of the Project. The approximate 1,358 square foot TCE is

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described more particularly on Exhibit "A-I" hereto and depicted on Exhibit "B-I" hereto, which are incorporated herein by this reference.

D. The Parties negotiated City’s purchase in fee of the Subject Fee Property and the City’s use of the TCE for a term of nine months, and have reached an agreement regarding the terms of the City’s purchase of the Subject Fee Property and TCE, subject to ratification by the City Council.

E. The Parties acknowledge that City is authorized to acquire real property by eminent domain for a public use, including public street purposes, and all uses necessary or convenient thereto, including, but not limited to, street, sewer, drainage, and utilities, pursuant to the authority conferred upon the City of Banning by California Constitution Article 1, Section 19, California Government Code Sections 37350, 37350.5, 37351, 40401 and 40404 and California Code of Civil Procedure Section 1230.010 et seq. (Eminent Domain Law). The Project is a public use for which City has the authority to exercise the power of eminent domain. The City Council of the City of Banning, as City’s governing body, has sole discretion to make the findings required by Code of Civil Procedure Section 1240.030 for the adoption of a resolution of necessity pursuant to the Eminent Domain Law. (Code of Civil Procedure Section 1245.220). If Seller and City had not reached an agreement for City’s purchase of the Subject Fee Property and use of the TCE, City staff would have recommended that the City Council consider the adoption of a resolution of necessity authorizing the initiation of eminent domain proceedings to acquire the Subject Fee Property and TCE in accordance with the Eminent Domain Law. The City Council, however, has the exclusive and sole discretion to adopt a resolution of necessity. The adoption of any such resolution of necessity would require City’s compliance with applicable law, including Government Code Section 7260 et seq. and the Eminent Domain Law. This Agreement is not a commitment or announcement of intent to acquire any other real property interests that City may need for the Project. Seller is solely responsible for consulting its tax advisors or seeking a letter ruling from the Internal Revenue Service regarding the applicability of 26 U.S.C. Section 1033 to Seller’s sale of the TCE to the City in connection with the Project. The City makes no express or implied representation regarding the applicability of 26 U.S.C. Section 1033 to this transaction.

F. Seller desires to sell to City the Subject Fee Property and authorize City to use the TCE for a term of nine months, and City desires to purchase the Subject Fee Property and use the TCE for a term of nine months, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the above Recitals, which are incorporated herein by this reference and for other valuable consideration, the sufficiency of which is hereby acknowledged, City and Seller agree as follows.

1. **SALE AND PURCHASE PRICE.**

1.1 **Sale and Purchase.** Seller agrees to sell the Subject Fee Property and the TCE to City and City agrees to purchase the Subject Fee Property and TCE upon the terms and conditions hereafter set forth.

a. **Subject Fee Property.** On the Close of Escrow (as defined in Section 3.2 below), Seller agrees to sell in fee to the City the approximate 2,490 square foot Subject Fee
Property described in Exhibit “A” and depicted on Exhibit “B” hereto, and the City agrees to purchase in fee the Subject Fee Property pursuant to a Grant Deed, in the form of which is attached as Exhibit “C” hereto, and incorporated herein by this reference.

b. **Temporary Construction Easement.** Seller further agrees to authorize City to use the approximate 1,358 square foot TCE described on Exhibit “A-1” hereto and depicted on Exhibit “B-1” hereto for a term of nine months to facilitate the City’s construction of the Project, including construction of street and drainage improvements in the new right of way area, construction staging purposes, storage of material and equipment, if necessary. City’s use of the TCE and an option to extend the TCE for up to an additional six months is subject to the terms of the Temporary Construction Easement Agreement (TCE Agreement), the form of which is attached as Exhibit “D” hereto, and incorporated herein by this reference.

1.2 **Purchase Price.** The total purchase price (“Purchase Price”) for the Subject Fee Property and the TCE is $11,425.00 (Eleven Thousand Four Hundred Twenty-Five Dollars).

2. **TITLE AND TITLE INSURANCE.**

2.1 **General.** Title to the Subject Fee Property shall be conveyed by a Grant Deed in the form attached hereto as Exhibit “C”.

2.2 **Title Insurance.** Upon the Opening of Escrow, Escrow Holder will obtain from First American Title Company a title commitment for the Subject Fee Property. Escrow Holder will also request two copies each of all instruments identified as exceptions on said title commitment. Upon receipt of the foregoing, Escrow Holder will deliver these instruments and the title commitment to City and Seller. First American Title Insurance Company, 323 Court Street, San Bernardino, California 92401, Title Officer: Tammy Kerr or Cheryl Campbell (“Title Company”) will insure City’s interest in the Subject Fee Property at the Close of Escrow by a CLTA Owner’s Standard Coverage Policy of Title Insurance in the amount of the Purchase Price (“Title Policy”), with liability in the full amount of the Purchase Price, insuring title to the Subject Fee Property as vested in the City, free and clear of all liens and encumbrances and other matters affecting title to the Subject Fee Property, except title exceptions which Buyer has approved in writing (which shall constitute “Permitted Title Exceptions”). Buyer, in its sole discretion, may request that Title Company insure Buyer’s interest in the Subject Fee Property by an ALTA Extended Coverage Form of Title Policy. In such case, Buyer shall pay for the costs of the ALTA Extended Coverage Policy and survey.

2.3 **Acts After Date of Agreement.** During the period from the date of this Agreement through the Close of Escrow, Seller shall not record or permit to be recorded any document or instrument relating to the Subject Fee Property or physically alter the Subject Fee Property or permit or cause to be altered without the prior written consent of Buyer, which consent may be withheld in Buyer’s sole and absolute discretion. Further, Seller agrees not to authorize any other party to use the TCE during the term of the TCE.
3. **ESCROW.**

3.1 **Escrow Holder.** The escrow shall be opened with Sentry Escrow Service, Inc. (Attention: Judy A. Russell, President) ("Escrow Holder"), within five (5) business days after the execution of this Agreement by Buyer and Seller depositing an executed copy or executed counterparts of this Agreement with Escrow Holder. This document shall be considered as the escrow instructions between the Parties, with such further instructions as Escrow Holder requires in order to clarify the duties and responsibilities of Escrow Holder. For the purposes of this Agreement, "Opening of Escrow" means the date on which Escrow Holder receives a copy of the fully-executed Agreement or copy of executed counterparts of this Agreement.

3.2 **Close of Escrow.** For the purposes of this Agreement, "Close of Escrow" shall be the date on which the Grant Deed for the Subject Fee Property in favor of Buyer and the TCE Agreement are recorded in the Official Records of the Riverside County Recorder’s Office. Provided all of Seller’s and Buyer’s obligations to be performed on or before Close of Escrow have been performed and all the conditions to the Close of Escrow set forth in this Agreement have been satisfied, escrow shall close 30 calendar days after the Opening of Escrow ("Closing Date"). All risk of loss or damage with respect to the Property shall pass from Seller to Buyer at the Close of Escrow. Possession of the Property shall be delivered to Buyer upon the Close of Escrow.

3.3 **Seller Required to Deliver.** Before the Close of Escrow, Seller shall deposit into escrow the following:

   a. A grant deed conveying the Property to Buyer, in the form attached hereto as Exhibit "C", duly executed by Seller and acknowledged ("Grant Deed");

   b. The executed Temporary Construction Easement Agreement in the form attached hereto as Exhibit "D", duly executed by Seller and acknowledged ("TCE Agreement");

   c. A California 593 certificate and federal non-foreign affidavit (with respect to Seller); and

   d. Any other documents reasonably required by Escrow Holder or the Title Company to be deposited by Seller to carry out this escrow.

3.4 **Buyer Required to Deliver.** On or before the Close of Escrow, Buyer shall deposit into escrow the following (properly executed and acknowledged, if applicable):

   a. An executed and acknowledged "Certificate of Acceptance" in the form attached to the Grant Deed (attached hereto as Exhibit "C");

   b. The executed TCE Agreement in the form attached hereto as Exhibit "D", duly executed by the City;

   c. The City covenants and agrees to deposit with Escrow Holder the Purchase Price and such escrow funds as are required within five business days of receiving written
notice from Escrow Holder regarding the confirmation of the completion of the conditions required herein for the Close of Escrow; and

d. Any other documents reasonably required by Escrow Holder to be deposited by Buyer to carry out this escrow.

3.5 Conditions to the Close of Escrow. Escrow shall not close unless and until both Parties have deposited with Escrow Holder all sums and documents required to be deposited as provided in this Agreement. Additionally, Buyer’s obligation to proceed with the transaction contemplated by this Agreement is subject to the satisfaction of all of the following conditions precedent, which are for Buyer’s benefit and may be waived only by Buyer:

a. Seller shall have performed all agreements to be performed by Seller hereunder.

b. Title Company shall have issued or shall have committed to issue the Title Policy to Buyer, for the amount of the Purchase Price, showing fee title to the Subject Fee Property to be vested in Buyer subject only to the Permitted Title Exceptions. Escrow Holder will use the proceeds of the Purchase Price to obtain a full reconveyance of any monetary liens encumbering the approximate Subject Fee Property, so that said Subject Fee Property is free and clear of monetary liens and encumbrances at the Close of Escrow. Escrow Holder will obtain final approval from Seller regarding the disbursement of the proceeds prior to disbursing any such proceeds to the holder(s) of the monetary liens encumbering the Subject Fee Property.

c. If any of the conditions to Close of Escrow are not timely satisfied for a reason other than a default of Buyer or Seller under this Agreement, and this Agreement is terminated, then upon termination of this Agreement, Escrow Holder shall promptly return to Buyer all funds (and all interest accrued thereon) and documents deposited by Buyer in escrow and to return to Seller all funds and documents deposited by Seller in escrow and which are held by Escrow Holder on the date of the termination (less any escrow cancellation charges).

3.6 Recordation of Grant Deed and TCE Agreement; Delivery of Funds and Possession. Upon receipt of the funds and instruments described in Sections 3.3 and 3.4, Escrow Holder shall cause the Grant Deed and TCE Agreement to be recorded in the Office of the County Recorder of Riverside County, California. Thereafter, Escrow Holder shall deliver the proceeds of this escrow (less appropriate charges as shown on a preliminary Settlement Statement executed by Buyer and Seller) to Seller, and Seller shall deliver possession of the Subject Fee Property to Buyer free and clear of all occupants. Buyer shall be authorized to use the TCE in accordance with the terms of the TCE Agreement.

3.7 Prorations. Real property taxes for the Subject Fee Property shall not be prorated, but must be paid by Seller for the current tax period. Seller may apply for a refund of property taxes in the event any property taxes paid are allocable to the period after the Close of Escrow and Buyer shall reasonably cooperate therewith. Buyer, as a municipal corporation acquiring property within its jurisdiction, is exempt from property taxes. All property assessments shall be prorated between Buyer and Seller as of the Close of Escrow based on the latest available tax information. All prorations for such assessments shall be determined on the basis of a 365-day
year. Escrow Holder is authorized to pay from the Purchase Price any unpaid delinquent taxes and/or penalties and interest thereon, and for any delinquent or non-delinquent assessments or bonds recorded against the Subject Fee Property.

3.8 Costs of Escrow. City will pay for the cost of the Title Policy (or ALTA Extended Coverage if Buyer elects to obtain such extended coverage). City will also pay for escrow fees and Escrow Holder’s customary out-of-pocket expenses for messenger services, long distance telephone calls, etc. City will pay for recording the Grant Deed and TCE Agreement, and any documentary or other local transfer taxes, if any, and any recording costs (if any).

3.9 Brokers. Buyer and Seller represent to one another that they have not engaged any broker or finder in connection with the transaction contemplated by this Agreement. Seller shall pay commissions to such broker in accordance with the agreement between Seller and such broker. Each party covenants and agrees that any other broker fee or commission, which may be due or payable in connection with the closing of the transaction contemplated by this Agreement through its dealings with that party, shall be borne solely by that party. Each party agrees to defend, indemnify and hold harmless the other party and its respective employees, agents, representatives, council members, attorneys, successors and assigns, from and against all claims of any agent, broker, finder or other similar party arising from or in connection with its activities relating to the sale of the Property to Buyer.

3.10 Escrow Cancellation Charges. If escrow fails to close through no fault of either party, the City will pay all escrow and title cancellation charges. In the event that this escrow shall fail to close by reason of the default of either party hereunder, the defaulting party shall be liable for all escrow and title cancellation charges.

4. PERMISSION TO ENTER/DUE DILIGENCE TESTING. Seller hereby grants to City and City’s authorized agents, contractors, consultants, assigns, attorneys, accountants and other representatives an irrevocable license/permission to enter upon the Subject Fee Property for the purpose of making any due diligence testing and other examinations of the Subject Fee Property, including, but not limited to, the right to perform soil and geological tests of the Subject Fee Property and environmental site assessments thereof, that City considers necessary. City will give Seller 48-hours written notice before going on the Subject Fee Property to conduct such due diligence testing. City does hereby indemnify and forever save Seller, Seller’s heirs, successors and assigns free and harmless from and against any and all liability, loss, damages, costs, expenses, demands, causes of action, claims or judgments, whether or not arising from or occurring out of any damage to the Subject Fee Property arising from any accident or other occurrence at the Subject Fee Property in connection with City’s due diligence testing and environmental site assessments involving entrance onto the Subject Fee Property pursuant to this Section. If City fails to acquire the Subject Fee Property due to City’s default, this license/permission to enter will terminate upon the termination of City’s right to purchase said Subject Fee Property. In such event, City will remove or cause to be removed all of its personal property, facilities, tools, and equipment from the Subject Fee Property left in the area comprising the Subject Fee Property in connection with the due diligence testing and restore said area as close to possible to the condition of said area prior to City’s due diligence testing. The obligation of City to indemnify Seller for any such damage to the Subject Fee Property arising from the due diligence testing and/or
environmental site assessment and related testing under this Section 4 will survive Close of Escrow or termination of Escrow.

5. REPRESENTATION AND WARRANTIES OF SELLER. Seller hereby represents and warrants to City the following, it being expressly understood and agreed that all such representations and warranties are to be true and correct as of the Close of Escrow and will survive the Close of Escrow:

5.1 That to the best of Seller's knowledge on the Close of Escrow (i) the Subject Fee Property will be free and clear of Hazardous Materials (defined in Section 10.1. below) or toxic substances and waste, including, but not limited to, asbestos; (ii) businesses, if any, on the Subject Fee Property have disposed of their waste in accordance with all applicable statutes, ordinances, and regulations; and (iii) Seller has no notice of any pending or threatened action or proceeding arising out of the condition of the Subject Fee Property or alleged violation of Environmental Laws (defined in Section 10.2. below), health or safety statutes, ordinance, or regulations.

5.2 That Seller is the sole owner of the Subject Fee Property free and clear of all liens, claims, encumbrances, easements, encroachments from adjacent properties, encroachments by improvements or vegetation on the Subject Fee Property onto adjacent property, or rights of way of any nature, other than those that may appear on the title commitment. Seller will not further encumber the Subject Fee Property or allow the Subject Fee Property to be further encumbered prior to the Close of Escrow.

5.3 Neither this Agreement nor anything provided to be done hereunder, including the transfer of the Subject Fee Property to City, violates or will violate any contract, agreement or instrument to which Seller is a party, or which affects the Subject Fee Property, and the Seller's grant to City of the Subject Fee Property pursuant to this Agreement does not require the consent of any party not a signatory hereto.

5.4 Except as disclosed in the title commitment referred to in Section 2.2, there are no claims or liens presently claimed or that will be claimed against the Subject Fee Property by contractors, subcontractors, or suppliers, engineers, architects, surveyors or others that may have lien rights for work performed or commenced prior to the Effective Date. Seller agrees to hold City harmless from all costs, expenses, liabilities, losses, charges, fees, including reasonable attorneys' fees, arising from or relating to any such lien or any similar lien claimed against the Subject Fee Property and arising from work performed or commenced prior to the Close of Escrow.

5.5 There are no written or oral leases or contractual right or option to lease, purchase, or otherwise enjoy possession, rights, or interest of any nature in and to the Subject Fee Property, TCE, or any part thereof, and no persons have any right of possession to the Subject Fee Property, TCE, or any part thereof. Seller agrees to hold City harmless from all costs, expenses, liabilities, losses, charges, fees, including attorneys' fees, arising from or relating to any claims by any person or entity claiming rights to possession of any portion of the Subject Fee Property or the TCE.
5.6 Seller has no knowledge of any pending, threatened or potential litigation, action or proceeding against Seller or any other party before any court or administrative tribunal that involves the Subject Fee Property.

6. REPRESENTATIONS AND WARRANTIES OF CITY. City hereby represents and warrants to Seller the following, it being expressly understood and agreed that all such representations and warranties are to be true and correct as of the Close of Escrow and will survive the Close of Escrow:

6.1 City has taken all required action to permit it to execute, deliver, and perform its obligations under this Agreement.

6.2 City has the power and authority to execute and deliver this Agreement and carry out its obligations hereunder and consummate the transaction contemplated herein.

7. TOTAL CONSIDERATION.

7.1 City’s Payment of Purchase Price. City’s payment to Seller of the Purchase Price set forth in this Agreement is an all-inclusive settlement and is the full and complete consideration and payment of just compensation for the fair market value of the Subject Fee Property, any improvements located on the Subject Fee Property, use by the City of the TCE for a term of nine months, severance damages, inverse condemnation, precondemnation damages, attorneys’ fees, interest, appraisal costs, loss of rents, lost profits, any other damages of every kind and nature suffered by Seller by reason of City’s acquisition of the Subject Fee Property and the TCE or the proposed Project for which City is acquiring the Subject Fee Property and TCE, and all costs and expenses whatever in connection therewith.

7.2 No Loss of Business Goodwill. Seller further acknowledges and agrees that Seller will not suffer any loss of goodwill under Code of Civil Procedure Section 1263.510 as a result of City’s acquisition of the Subject Fee Property or the construction of the Project because the Larger Parcel is a vacant, unimproved parcel and no business is operated on said parcel. Under Code of Civil Procedure Section 1263.510, the owner of a business conducted on the property taken, or on the remainder if the property is part of a larger parcel, will be compensated for loss of goodwill if the owner proves that (i) the loss is caused by City’s acquisition of the property or the injury to the remainder; (ii) the loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill; (iii) compensation for the loss will not be included in payments under Government Code Section 7262; and (iv) compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner.

7.3 No Relocation Assistance. The Larger Parcel consists of a vacant, unimproved parcel. The City’s acquisition of the Subject Fee Property and TCE will not result in the displacement of any person or business. Accordingly, no relocation assistance and benefits pursuant to applicable federal or state relocation laws or regulations, including without limitation, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Section 4601 et seq.), if applicable, or under Title 1, Division 7, Chapter 1 of the Government Code of the State of California (Section 7260 et seq.), or the Relocation Assistance and Real
Property Acquisition Guidelines (Chapter 6 of Title 25 of the California Code of Regulations) are triggered as a result of the City’s acquisition of the Subject Fee Property and TCE in connection with the Project.

8. **RELEASES.**

8.1 This Agreement is a voluntary agreement and Seller on the Close of Escrow, on behalf of Seller, Seller’s successors and assigns, fully releases City, its Council Members, officers, counsel, employees, representatives and agents, from all claims and causes of action by reason of any damage that has been sustained, or may be sustained, as a result of City’s efforts to acquire the Subject Fee Property and TCE, or any preliminary steps thereto. Seller further releases and agrees to hold City harmless from any and all claims and causes of action asserted by any party claiming to have rights to possession of any portion of the Subject Fee Property and TCE.

8.2 Seller acknowledges that it may have sustained damage, loss, costs or expenses that are presently unknown and unsuspected, and such damage, loss, costs or expenses that may have been sustained, may give rise to additional damages, loss, costs or expenses in the future. Nevertheless, Seller hereby acknowledges that this Agreement has been negotiated and agreed upon in light of that situation, and hereby expressly waives any and all rights that Seller may have under California Civil Code Section 1542 as it relates to the releases set forth in this Section 8, or under any statute or common law or equitable principle of similar effect. California Civil Code Section 1542 provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

Seller’s Initials: [Handwritten Initials]

City’s Initials: [Handwritten Initials]

Seller’s waiver of rights and release of claims set forth above in Section 8.1 and Section 8.2 will not extend to and is not intended to extend to claims related to or alleged to arise out of negligence on the part of City, its agents or contractors, in connection with the physical construction of the Project.

This Section 8 will survive the Close of Escrow.

9. **CITY’S CONTINGENCIES.** For the benefit of City, the Close of Escrow and City’s obligation to consummate the purchase of the Subject Fee Property and TCE will be contingent upon and subject to the occurrence of all of the following (or City’s written waiver thereof, it being agreed that City can waive any or all such contingencies) on or before the Close of Escrow:

9.1 That as of the Close of Escrow the representations and warranties of Seller contained in this Agreement are all true and correct;
9.2 The delivery to Escrow Holder of all documents pursuant to Sections 3.3 and 3.4 of this Agreement;

9.3 Escrow Holder’s commitment to issue, in favor of City, the Policy with liability equal to the Purchase Price showing City’s interest in the Subject Fee Property, subject only to the Permitted Title Exceptions; and

9.4 City’s approval prior to the Close of Escrow of any due diligence testing, environmental site assessment, soils or geological reports, or other physical inspections of the Subject Fee Property that City might perform prior to the Close of Escrow.

10. CERTAIN DEFINITIONS.

10.1 The term “Hazardous Materials” will mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, by-product or constituent regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq.; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 et seq.; asbestos and asbestos-containing materials, PCBs and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; source material, special nuclear material, by-product material and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act of 1982; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. Section 1910.1200 et seq.; industrial process and pollution control wastes, whether or not hazardous within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; any substance defined as a “hazardous substance” in California Civil Code Section 2929.5(e)(2) or California Code of Civil Procedure Section 736(f)(3); and any other substance or material regulated by any Environmental Laws.

environmental statutes and ordinances, with implementing regulations and rules in effect on or prior to the Effective Date.

11. **EVIDENCE IN COURT PROCEEDING.** The Parties agree that the total Purchase Price of $11,425.00 or any inference of per square foot value of the Subject Fee Property or TCE based on said Purchase Price will not be admissible as evidence of the fair market value of the Subject Fee Property or TCE in any eminent domain or other proceeding or litigation concerning the Subject Fee Property, or any portion thereof.

12. **DEFAULT.** In the event of a breach or default under this Agreement by either City or Seller, the non-defaulting party will have, in addition to all rights available at law or equity, the right to terminate this Agreement and the Escrow for the purchase and sale of the Subject Fee Property and TCE, by delivering written notice thereof to the defaulting party and to Escrow Holder, and if City is the non-defaulting party, City will thereupon promptly receive a refund of all of the deposits it deposited with Escrow Holder, if any, less City’s share of any Escrow cancellation charges. Such termination of the Escrow by a non-defaulting party will be without prejudice to the non-defaulting party’s rights and remedies at law or equity.

13. **NOTICES.** All notices and demands will be given in writing by certified mail, postage prepaid, and return receipt requested, by personal delivery, or by Federal Express or other overnight carrier. Notices will be considered given upon the earlier of (a) personal delivery, (b) two business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested, or (c) one business day following deposit with Federal Express or other overnight carrier. A copy of all notices will be sent to Escrow Holder. The Parties will address such notices as provided below or as may be amended by written notice:

**BUYER:**
City of Banning  
99 E. Ramsey Street  
Banning, California 92220  
Attention: City Manager

**COPY TO:**
Richards, Watson & Gershon  
355 South Grand Avenue  
40th Floor  
Los Angeles, California 90071-3101  
Attention: Kevin Ennis, City Attorney

**SELLER:**
Humberto Ramirez and Eulogia R. Ramirez,  
as co-Trustees of The Humberto and Eulogia  
R. Ramirez Family Living Trust u/a dated  
May 29, 2013  
410 Avignon Court  
Riverside, California 92501-1202
14. MISCELLANEOUS

14.1 Attorneys' Fees. In any action between Buyer and Seller seeking enforcement of any of the terms and provisions of this Agreement, the prevailing party in such action shall be awarded, in addition to damages, injunctive or other relief, its reasonable costs and expenses, not limited to taxable costs, reasonable attorneys' fees and reasonable fees of expert witnesses.

14.2 Entire Agreement. This Agreement and the TCE Agreement contain all of the agreements of the Parties hereto with respect to the matters contained herein, and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose. No provision of this Agreement may be amended, supplemented or in any way modified except by an agreement in writing signed by the Parties hereto or their respective successors in interest and expressly stating that it is an amendment of this Agreement.

14.3 Counterparts, Facsimile, and Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. Facsimile or electronic signatures/counterparts to this Agreement will be effective as if the original signed counterpart were delivered.

14.4 Time of the Essence. Time is of the essence of this Agreement.

14.5 Governing Law. This Agreement is deemed to have been prepared by each of the Parties hereto, and any uncertainty or ambiguity herein will not be interpreted against the drafter, but rather, if such uncertainty or ambiguity exists, will be interpreted according to the applicable rules of interpretation of contracts under the laws of the State of California, and not the substantive law of another state or the United States or federal common law. This Agreement will be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties will be governed by, and construed and enforced in accordance with, the laws of the State of California.

14.6 Third Parties. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the Parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.
14.7 **Severability.** If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, unless such invalidity, illegality or unenforceability materially affects the economic terms of the transactions contemplated by this Agreement or the ability of either party to perform its obligations under this Agreement. In such case, either party may terminate this Agreement and the escrow upon written notice to the other party given no later than ten business days after the party giving such notice becomes aware of such invalidity, illegality or unenforceability. In the event of such termination, all funds deposited with Escrow Holder by Buyer and any interest accrued thereon shall be returned to Buyer.

14.8 **Additional Documents.** Each party hereto agrees to perform any further acts and to execute, acknowledge and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

14.9 **Authority of City Manager.** The City Manager may give any and all notices, consents, and terminations hereunder on behalf of the City provided they are in writing. The City Manager may execute the TCE Agreement, Certificate of Acceptance, escrow documents, and any such documents or instruments that are necessary to effect the transfer of property interests contemplated herein.

14.10 **Legal Representation.** Each of the Parties acknowledge that in connection with the negotiation and execution of this Agreement, they have each been represented by independent counsel of their own choosing and the Parties executed this Agreement after review by such independent counsel, or, if they were not so represented, said non-representation is and was the voluntary, intelligent and informed decision and election of any of the Parties not so represented; and, prior to executing this Agreement, each of the Parties has had an adequate opportunity to conduct an independent investigation of all the facts and circumstances with respect to the matters that are the subject of this Agreement.

14.11 **Remedies Not Exclusive and Waivers.** No remedy conferred by any of the specific provisions of this Agreement is intended to be exclusive of any other remedy and each and every remedy will be cumulative and will be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies will not constitute a waiver of the right to pursue other available remedies.

14.12 **Severability.** If any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if this Agreement did not contain the particular part, term or provision held to be invalid.
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth below.

SELLER
Humberto Ramirez and Eulogia R. Ramirez, as Co-Trustees of The Humberto and Eulogia R. Ramirez Family Living Trust u/a dated May 29, 2013

Dated: 2-18/2019

By: ____________________________
Humberto Ramirez, Co-Trustee of The Humberto and Eulogia R. Ramirez Family Living Trust u/a dated May 29, 2013

Dated: 2-18/2019

By: ____________________________

see attached acknowledgment

11303-0019/2266093vl.doc

-14-
BUYER
City of Banning, a municipal corporation

Dated: __________________________

By: ____________________________
Douglas Schulze, City Manager

ATTEST:

By: ____________________________
Marie Calderon, City Clerk

APPROVED AS TO FORM:

______________________________
Kevin Ennis, City Attorney
Exhibit “A”
Legal Description of Subject Fee Property

EXHIBIT “A”
RIGHT-OF-WAY DEDICATION – A.P.N. 532-120-011

THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 11,
TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE CITY
OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE
OFFICIAL PLAT THEREOF, WITHIN THE LAND DESCRIBED IN A GRANT DEED TO
HUMBERTO RAMIREZ RECORDED APRIL 19, 2011 AS DOCUMENT NO. 2011-01495549
OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID
COUNTY, LINGING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF RAMSEY STREET AND
HATHAWAY STREET AS SHOWN ON A RECORD OF SURVEY FILED IN BOOK 11, PAGE
24 OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE, ALONG SAID CENTERLINE OF RAMSEY STREET, SOUTH 89°07’14” EAST,
165.00 FEET TO THE SOUTHWESTERLY CORNER OF THE LAND DESCRIBED AS
PARCEL 1 IN A CORPORATION GRANT DEED TO PETER MARINO RECORDED MARCH 9,
2011 AS DOCUMENT NO. 2011-0204495 OF OFFICIAL RECORDS, IN SAID OFFICE
OF THE COUNTY RECORDER;

THENCE, ALONG THE WESTERLY LINE OF SAID PARCEL 1 OF THE CORPORATION
GRANT DEED RECORDED MARCH 9, 2011 AS DOCUMENT NO. 2011-0204495 OF
OFFICIAL RECORDS, NORTH 00°03’38” EAST, 65.01 FEET TO A LINE PARALLEL
WITH AND 65.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET AND
THE POINT OF BEGINNING;

THENCE, TRAVERSING THE INTERIOR OF SAID WEST HALF OF THE NORTHWEST
QUARTER OF SECTION 11, THE FOLLOWING COURSES:

ALONG SAID PARALLEL LINE, SOUTH 89°07’14” EAST, 162.66 FEET TO
THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF
212.00 FEET;

EASTERLY 21.12 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE
OF 05°42’25”;

SOUTH 83°24’49” EAST, 80.62 FEET TO THE BEGINNING OF A CURVE
CONCAVE NORTHERLY HAVING A RADIUS OF 188.00 FEET, SAID CURVE
BEING TANGENT WITH A LINE PARALLEL WITH AND 55.00 FEET NORTHERLY
OF SAID CENTERLINE OF RAMSEY STREET;

EASTERLY 18.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE
OF 05°42’25” TO SAID PARALLEL LINE;

ALONG SAID PARALLEL LINE, SOUTH 89°07’14” EAST, 165.86 FEET TO
THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF
615.00 FEET;

EASTERLY 177.69 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE
OF 16°33’15”;

NORTH 44°19’31” EAST, 418.31 FEET;
EXHIBIT "A"
RIGHT-OF-WAY DEDICATION - A.P.N. 532-120-011

NORTH 70°54'14" EAST, 68.91 FEET TO THE BEGINNING OF A CURVE
CONCAVE NORTHWESTERLY HAVING A RADIUS OF 365.00 FEET;

NORTHEASTERLY 60.28 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE
OF 09°27'43" TO THE EASTERNLY LINE OF SAID WEST HALF OF THE
NORTHWEST QUARTER OF SECTION 11.

CONTAINING 2,490 SQUARE FEET, MORE OR LESS.

ALSO AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND HEREBY MADE A PART
HEREOF.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS,
EASEMENTS, AND RIGHTS-OF-WAY OF RECORD, IF ANY.

PREPARED BY: STANTEC CONSULTING INC.
UNDER THE DIRECTION OF:

JAMES O. STEINES, P.L.S. 6086

APRIL 4, 2012
J.N. 2042 473201

Exhibit "A"
Page 2 of 2
Exhibit “B”
Depiction of Subject Fee Property

EXHIBIT "B"
A PORTION OF THE W 1/2 OF THE NW 1/4 OF SECTION 11, T. 3 S., R. 1 E., S.B.M.,
IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
RIGHT-OF-WAY DEDICATION - APN 532-120-011

C/L NICOLET STREET

C/L JACINTO
VIEW ROAD

C/L WILLIAMS STREET

C/L RAMSEY STREET

POR
B. C.
B. C.
B. C.

LANDS
185
185
185

APN 532-110-004

APN 532-120-001

APN 532-120-002

SW 1/4, SECTION 11
T. 3 S., R. 1 E., S.B.M.

SCALE: 1" = 300'

JAMES D. STEINES, PLS 6086

STANTEC CONSULTING INC.
19 TECHNOLOGY DRIVE
BIVN, CA 92616
949.923.6500

J.N. 2042 473201 DATE: 4/4/12

Exhibit “B”
Page 1 of 3
EXHIBIT "B"
RIGHT-OF-WAY DEDICATION - APN 532-120-011

APN 532-120-002
W 1/2, NW 1/4, SECTION 11
T. 3 S., R. 1 E., S.B.M.
R.S. 11 / 24
Q.R. 2011-045549

APN 532-120-004

APN 532-120-012
RW DEDICATION
2,440 SQ. FT.

APN 532-120-010

G1

APN 532-120-008

525'33'28"E
(RAD)

STATE HIGHWAY 10

STATE COR. OF W 1/2 OF
NW 1/4 OF SEC 11

C/L RAMSEY STREET

SEE

1145.43'

59707'14"E 1310.43'
S/LY LINE OF
NW 1/4 OF SEC 11

LINE TABLE

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<tr>
<td>L3</td>
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CURVE TABLE

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<td>C2</td>
<td>543.00'</td>
<td>547.70'</td>
<td>50.28'</td>
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</tbody>
</table>

SCALE: 1" = 100'

Exhibit "B"
Page 3 of 3
Exhibit “A-1”
Legal Description of Temporary Construction Easement

EXHIBIT “A”
TEMPORARY CONSTRUCTION EASEMENT - A.P.N. 532-120-011

THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE CITY OF RANCHO CUCAMONGA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, WITHIN THE LAND DESCRIBED IN A GRANT DEED TO HUMBERTO RAMIREZ RECORDED APRIL 1, 2011 AS DOCUMENT NO. 2011-0145549 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED REFERENCE LINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF RAMSEY STREET AND HATHAWAY STREET AS SHOWN ON A RECORD OF SURVEY FILED IN BOOK 11, PAGE 24 OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE, ALONG SAID CENTERLINE OF HATHAWAY STREET, NORTH 00°03'38" EAST, 1355.00 FEET TO THE NORTHEASTERLY CORNER OF PARCEL 1 AS DESCRIBED IN A GRANT DEED TO OSI PARTNERSHIP 1, LLC, RECORDED APRIL 10, 2008 AS DOCUMENT NO. 2008-0170925, OFFICIAL RECORDS OF SAID COUNTY, AND THE POINT OF BEGINNING;

THENCE, ALONG THE NORTHERLY LINE OF SAID PARCEL 1 AS DESCRIBED IN A GRANT DEED TO OSI PARTNERSHIP 1, LLC, SOUTH 89°15'37" EAST, 52.00 FEET TO A LINE PARALLEL WITH AND 52.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 125.99 FEET;

THENCE, SOUTH 89°56'32" EAST, 1.00 FEET TO A LINE PARALLEL WITH AND 53.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 29.50 FEET;

THENCE, SOUTH 89°56'22" EAST, 1.00 FEET TO A LINE PARALLEL WITH AND 54.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 99.85 FEET;

THENCE, SOUTH 44°59'49" EAST, 43.56 FEET;

THENCE, SOUTH 00°03'16" EAST, 61.19 FEET;

THENCE, SOUTH 45°00'11" WEST, 40.99 FEET TO A LINE PARALLEL WITH AND 56.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 126.26 FEET TO THE NORTHERLY LINE OF PARCEL 6 DESCRIBED IN A GRANT DEED TO LOUIS S. LOPEZ, TRUSTEE OF THE LOUIS S. LOPEZ TRUST, RECORDED DECEMBER 5, 2006 AS DOCUMENT NO. 2006-0889568, OFFICIAL RECORDS OF SAID COUNTY;

THENCE, ALONG SAID NORTHERLY LINE, NORTH 89°14'00" WEST, 1.00 FEET TO A LINE PARALLEL WITH AND 55.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 286.84 FEET;

1 OF 5
EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT - A.P.N. 532-120-011

THENCE, SOUTH 89°56'22" EAST, 2.00 FEET TO A LINE PARALLEL WITH AND 57.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 69.37 FEET;

THENCE, NORTH 89°56'22" WEST, 1.00 FEET TO A LINE PARALLEL WITH AND 56.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 105.38 FEET;

THENCE, SOUTH 53°55'49" EAST, 11.13 FEET;
THENCE, SOUTH 00°03'38" WEST, 34.32 FEET;
THENCE, SOUTH 51°09'30" WEST, 12.85 FEET TO A LINE PARALLEL WITH AND 55.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 219.93 FEET;

THENCE, SOUTH 38°57'16" EAST, 14.30 FEET;
THENCE, SOUTH 00°03'38" WEST, 34.56 FEET;
THENCE, SOUTH 61°37'51" WEST, 10.23 FEET TO A LINE PARALLEL WITH AND 55.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 39.62 FEET TO THE SOUTHERLY LINE OF PARCEL 2 DESCRIBED IN SAID GRANT DEED TO LOUIS S. LOPEZ, TRUSTEE OF THE LOUIS S. LOPEZ TRUST, RECORDED DECEMBER 5, 2006 AS DOCUMENT NO. 2006-0989569;

THENCE, ALONG SAID SOUTHERLY LINE, SOUTH 89°07'14" EAST, 9.00 FEET TO A LINE PARALLEL WITH AND 64.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 39.71 FEET;

THENCE, SOUTH 49°31'47" WEST, 9.21 FEET TO A LINE PARALLEL WITH AND 57.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 52.53 FEET;

THENCE, SOUTH 01°47'23" WEST, 66.27 FEET TO A LINE PARALLEL WITH AND 55.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 57.98 FEET;

THENCE, SOUTH 50°12'34" EAST, 21.36 FEET TO A LINE PARALLEL WITH AND 74.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 89°07'14" EAST, 93.57 FEET TO THE WESTERLY LINE OF PARCEL 1 OF THE CORPORATION GRANT DEED RECORDED

2 OF 5
EXHIBIT “A”
TEMPORARY CONSTRUCTION EASEMENT – A.P.N. 532-120-011

MAY 9, 2011 AS DOCUMENT NO. 2011-0204495, OFFICIAL RECORDS OF SAID COUNTY;

THEN, ALONG SAID WESTERLY LINE, SOUTH 00°03’38” WEST, 9.00 FEET TO A LINE PARALLEL WITH AND 65.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

THEN, ALONG SAID PARALLEL LINE, SOUTH 89°07’14” EAST, 117.32 FEET;

THEN, NORTH 00°03’38” EAST, 18.99 FEET;
THEN, SOUTH 89°56’22” EAST, 65.00 FEET;
THEN, SOUTH 00°03’38” WEST, 20.83 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 212.00 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 06°12’06” EAST;

THEN, EASTERLY 1.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°23’05”;

THEN, SOUTH 83°24’49” EAST, 70.70 FEET TO THE EASTERNLY LINE OF SAID PARCEL 1 OF THE CORPORATION GRANT DEED RECORDED MAY 9, 2011 AS DOCUMENT NO. 2011-0204495;

THEN, ALONG SAID EASTERNLY LINE, NORTH 00°03’38” EAST, 10.20 FEET;

THEN, SOUTH 89°56’22” EAST, 42.00 FEET;
THEN, SOUTH 00°23’37” EAST, 12.72 FEET TO A LINE PARALLEL WITH AND 55.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

THEN, ALONG SAID PARALLEL LINE, SOUTH 89°07’14” EAST, 70.89 FEET TO THE WESTERNLY LINE OF PARCEL 3 DESCRIBED IN SAID GRANT DEED TO LOUIS S. LOPEZ, TRUSTEE OF THE LOUIS S. LOPEZ TRUST, RECORDED DECEMBER 5, 2006 AS DOCUMENT NO. 2006-0889568;

THEN, ALONG SAID WESTERLY LINE, NORTH 00°03’38” EAST, 14.00 FEET TO A LINE PARALLEL WITH AND 69.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

THEN, ALONG SAID PARALLEL LINE, SOUTH 89°07’14” EAST, 42.66 FEET;

THEN, SOUTH 01°14’46” EAST, 21.31 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 604.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 01°48’41” WEST;

THEN, EASTERLY 96.41 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°11’48” TO A NON-TANGENT LINE AND TO WHICH A RADIAL LINE BEARS SOUTH 06°23’07” EAST;

THEN, ALONG SAID NON-TANGENT LINE, NORTH 00°03’38” EAST, 2.01 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A
EXHIBIT “A”
TEMPORARY CONSTRUCTION EASEMENT – A.P.N. 532-120-011

RADIUS OF 602.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH
06°24’24” EAST;

THENCE, EASTERLY 59.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE
OF 05°38’47” TO A NON-TANGENT LINE AND TO WHICH A RADIAL LINE BEARS
SOUTH 12°03’11” EAST;

THENCE, ALONG SAID NON-TANGENT LINE, NORTH 72°27’02” EAST, 27.32 FEET
TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A
RADIUS OF 600.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH
14°39’03” EAST;

THENCE, EASTERLY 10.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE
OF 01°01’26”;

THENCE, NORTH 74°19’31” EAST, 57.22 FEET;
THENCE, SOUTH 00°03’38” WEST, 4.16 FEET;
THENCE, NORTH 74°18’31” EAST, 35.48 FEET;
THENCE, NORTH 63°02’37” EAST, 56.23 FEET;
THENCE, NORTH 74°19’31” EAST, 12.45 FEET TO THE EASTERLY LINE OF
PARCEL 5 DESCRIBED IN SAID GRANT DEED TO LOUIS S. LOPEZ, TRUSTEE OF
THE LOUIS S. LOPEZ TRUST, RECORDED DECEMBER 5, 2006 AS DOCUMENT NO.
2006-0889568;

THENCE, ALONG SAID EASTERLY LINE, SOUTH 00°22’48” WEST, 7.28 FEET;

THENCE, NORTH 74°19’31” EAST, 90.54 FEET TO THE EASTERLY LINE OF SAID
LAND DESCRIBED IN A GRANT DEED TO HUMBERTO RAMIREZ RECORDED APRIL 1,
2011 AS DOCUMENT NO. 2011-0145549;

THENCE, CONTINUING NORTH 74°19’31” EAST, 22.89 FEET;

THENCE, NORTH 82°52’09” EAST, 40.39 FEET;

THENCE, NORTH 74°19’31” EAST, 53.02 FEET TO THE WESTERLY LINE OF THE
LAND DESCRIBED IN A GRANT DEED TO GARY CARLTON AND WENDY CARLTON,
TRUSTEES OF THE GARY AND WENDY CARLTON LIVING TRUST, RECORDED MARCH 8,
2006 AS DOCUMENT NO. 2006-0165322, OFFICIAL RECORDS OF SAID COUNTY;

THENCE, ALONG SAID WESTERLY LINE, SOUTH 00°22’48” WEST, 2.08 FEET;

THENCE, NORTH 74°19’31” EAST, 36.50 FEET;
THENCE, NORTH 81°52’04” EAST, 42.65 FEET;
THENCE, NORTH 70°54’14” EAST, 45.42 FEET TO THE BEGINNING OF A CURVE
CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 365.00 FEET;

THENCE, NORTHEASTERLY 60.28 FEET ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF 09°27’43” TO THE EASTERLY LINE OF SAID WEST HALF OF THE
NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST;
EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT - A.P.N. 532-120-011

THENCE, ALONG SAID EASTERLY LINE, SOUTH 00°22'48" WEST, 248.39 FEET TO THE SOUTHERLY LINE OF SAID NORTHWEST QUARTER OF SECTION 11 AND THE TERMINUS OF THE REFERENCE LINE.

EXCEPTING THEREFROM THAT PORTION INCLUDED WITHIN THE RIGHT-OF-WAY DEDICATION TO THE CITY OF BANNING RECORDED ____________, AS DOCUMENT NO. _________________, OFFICIAL RECORDS OF SAID COUNTY.

CONTAINING 1,358 SQUARE FEET, MORE OR LESS.

ALSO AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND HEREBY MADE A PART HEREOF.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS, AND RIGHTS-OF-WAY OF RECORD, IF ANY.

PREPARED BY: STANTEC CONSULTING INC.
UNDER THE DIRECTION OF:

MINH A. LE, P.L.S. 0543

MARCH 7, 2019
J.N. 2073 013430
Exhibit "B-1"

Depiction of Temporary Construction Easement

EXHIBIT "B"

A PORTION OF THE W 1/2 OF THE NW 1/4 OF SECTION 11, T. 3 S., R. 1 E., S.B.M.,
IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
TEMPORARY CONSTRUCTION EASEMENT - APN 532-120-011

C/L NICOLET STREET

C/L JACINTO VIEW ROAD

C/L WILLIAMS STREET

C/L RAMSEY STREET

SCALE: 1" = 300'

INTERSTATE

HIGHWAY

SW 1/4, SECTION 11
T. 3 S., R. 1 E., S.B.M.

APN 532-120-001
APN 532-120-002
APN 532-120-003
APN 532-120-004
APN 532-120-005
APN 532-120-006
APN 532-120-007
APN 532-120-008
APN 532-120-009
APN 532-120-010
APN 532-120-011
APN 532-120-012
APN 532-120-013
APN 532-120-014
APN 532-120-015
APN 532-120-016
APN 532-120-017
APN 532-120-018
APN 532-120-019
APN 532-120-020
APN 532-120-021
APN 532-120-022
APN 532-120-023
APN 532-120-024

Professional Land Surveyor
MINH A. LE
NO. 8543
STATE OF CALIFORNIA

Stantec
38 TECHNOLOGY DRIVE, SUITE 100
IRVINE, CA 92618
949.923.2000 stantec.com

Exhibit "B-1"
Page 1 of 5
EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT - APN 532-120-011

LINE TABLE

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SCALE: 1" = 100'

W 1/2, NW 1/4, SECTION 11
T. 33 S., R. 1 E., S.B.M.

SEE SHEET 4

Exhibit "B-1"
Page 3 of 5
Exhibit "B-1"

Page 5 of 5
Exhibit “C”
Form of Grant Deed

Recording Requested by
and when recorded return to:

CITY OF BANNING
99 E. Ramsey Street
Banning, California 92220
Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER’S USE

Assessor’s Parcel No. 532-120-011 [X] Portions

Documentary Transfer Tax $0.00

This Instrument is for the benefit of the City of Banning and is exempt from Recording Fees (Govt. Code § 27383), Filing Fees (Govt. Code § 6103), and Documentary Transfer Tax (Rev. & Tax Code § 11922).

GRANT DEED

HUMBERTO RAMIREZ AND EULOGIA R. RAMIREZ, AS CO-TRUSTEES OF THE HUMBERTO AND EULOGIA R. RAMIREZ (“Grantors”) are the record fee owners of that certain real property located at 1909 E. Ramsey Street, in the City of Banning, California, and identified as Riverside County Tax Assessor’s Parcel Number 532-120-011 (“Larger Parcel”).

Grantors seek to grant to the CITY OF BANNING, a California municipal corporation, in fee an approximate 2,490 square foot portion of the Larger Parcel described more particularly below (“Subject Fee Property”) for public use.

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, Grantors hereby grant to the CITY OF BANNING, a municipal corporation (“Grantee”) in fee the Subject Fee Property described more particularly on Exhibit “A” and depicted on Exhibit “B”, which are attached hereto and incorporated herein by this reference, for public use, namely public street purposes, and all uses necessary or convenient thereto, including but not limited to street, sewer, drainage, and utilities in connection with the Ramsey-Hathaway Street Improvement Project. The Subject Fee Property includes all of the interests of Grantors in and to the Subject Fee Property, including all improvements thereon, and any rights, title, and interest of Grantors in and to adjacent streets, alleys, or rights of way.
IN WITNESS WHEREOF, Grantors have executed this Grant Deed as of the date set forth below.

GRANTORS
Humberto Ramirez and Eulogia R. Ramirez, as co-Trustees of The Humberto and Eulogia R. Ramirez Family Living Trust, u/a Dated May 29, 2013

Dated: ____________________________________________

By: _______________________________________________

Humberto Ramirez, Co-Trustee of The Humberto and Eulogia R. Ramirez Family Living Trust, u/a Dated May 29, 2013

Dated: ____________________________________________

By: _______________________________________________

Eulogia Ramirez Co-Trustee of The Humberto and Eulogia R. Ramirez Family Living Trust, u/a Dated May 29, 2013
Exhibit “A”
Legal Description of Subject Fee Property

EXHIBIT “A”
RIGHT-OF-WAY DEDICATION – A.P.N. 532-120-011

THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, WITHIN THE LAND DESCRIBED IN A GRANT DEED TO HUMBERTO RAMIREZ RECORDED APRIL 1, 2011 AS DOCUMENT NO. 2011-0145549 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF RAMSEY STREET AND HATHAWAY STREET AS SHOWN ON A RECORD OF SURVEY FILED IN BOOK 11, PAGE 24 OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE, ALONG SAID CENTERLINE OF RAMSEY STREET, SOUTH 89°07’14” EAST, 165.00 FEET TO THE SOUTHEASTERLY CORNER OF THE LAND DESCRIBED AS PARCEL 1 IN A CORPORATION GRANT DEED TO PETER MARINO RECORDED MAY 9, 2011 AS DOCUMENT NO. 2011-0204495 OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE, ALONG THE WESTERLY LINE OF SAID PARCEL 1 OF THE CORPORATION GRANT DEED RECORDED MAY 9, 2011 AS DOCUMENT NO. 2011-0204495 OF OFFICIAL RECORDS, NORTH 00°03’38” EAST, 65.01 FEET TO A LINE PARALLEL WITH AND 65.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET AND THE POINT OF BEGINNING;

THENCE, TRAVERSING THE INTERIOR OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 11, THE FOLLOWING COURSES:

ALONG SAID PARALLEL LINE, SOUTH 89°07’14” EAST, 162.68 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 212.00 FEET;

EASTERNLY 21.12 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°42’25”;

SOUTH 83°24’49” EAST, 80.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 188.00 FEET, SAID CURVE BEING TANGENT WITH A LINE PARALLEL WITH AND 55.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

EASTERNLY 16.71 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°42’25” TO SAID PARALLEL LINE;

ALONG SAID PARALLEL LINE, SOUTH 89°01’14” EAST, 165.86 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 615.00 FEET;

EASTERNLY 177.69 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15°33’15”;

NORTH 14°19’31” EAST, 418.31 FEET;

1 OF 2
EXHIBIT "A"
RIGHT-OF-WAY DEDICATION - A.P.N. 532-120-011

NORTH 70°54'14" EAST, 68.91 FEET TO THE BEGINNING OF A CURVE
CONCAVE NORTHEASTERLY HAVING A RADIUS OF 365.00 FEET;

NORTHEASTERLY 60.28 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE
OF 09°27'43" TO THE EASTERLY LINE OF SAID WEST HALF OF THE
NORTHWEST QUARTER OF SECTION 11.

CONTAINING 2,490 SQUARE FEET, MORE OR LESS.

ALSO AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND HEREBY MADE A PART
HEREOF.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS,
EASEMENTS, AND RIGHTS-OF-WAY OF RECORD, IF ANY.

PREPARED BY: STANTEC CONSULTING INC.
UNDER THE DIRECTION OF:

JAMES O. STEINE, F.L.S. 6086
APRIL 4, 2012
J.N. 2042 473201
EXHIBIT "B"

A PORTION OF THE W 1/2 OF THE NW 1/4 OF SECTION 11, T. 3 S., R. 1 E., S.B.M.,
IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

RIGHT-OF-WAY DEDICATION - APN 532-120-011

C/L NICOLET STREET

C/L JACINTO VIEW ROAD

C/L WILLIAMS STREET

C/L RAMSEY STREET

P.M. NO. 36056

P.M.B.

APN 532-110-004

W 1/2, NW 1/4, SECTION 11
T. 3 S., R. 1 E., S.B.M.

APN 532-140-001

R.S. 11 / 24

APN 532-120-002

APN 532-120-004

NO. 120-020

NO. 170-021

NO. 170-019

NO. 541-170-015

186

3 BLOCKS

172 LANDS

10

INTERSTATE

SW 1/4, SECTION 11
T. 3 S., R. 1 E., S.B.M.

SCALE: 1" = 300'

JAMES O. STEINES, P.E.

STANTEC CONSULTING INC.
19 TECHNOLOGY DRIVE
IRVINE, CA 92618
949 923 6000

4/4/2012 8:59:12 AM PDT

Page 1 of 3
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 __________________________ before me, __ 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, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) 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 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: __________________________ 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: __________________________
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 before me, , 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, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) 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 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: Document Date: 

Number of Pages: Signer(s) Other Than Named Above: 

Capacity(ies) claimed by Signer(s)

Signer’s Name: Signer’s Name:

☐ Corporate Officer – Title(s): ☐ Corporate Officer – Title(s): 

☐ Partner – ☐ Limited ☐ General 

☐ Individual ☐ Attorney in Fact 

☐ Trustee ☐ Guardian or Conservator

☐ Other: 

Signer Is Representing: 

Signer Is Representing: 

765
CERTIFICATE OF ACCEPTANCE OF GRANT DEED

(Gov't Code § 27281)
(Portions of APN 532-120-011)

This is to certify that the grant to the City of Banning of that certain approximate 2,490 square foot portion of that certain real property located at 1909 E. Ramsey Street, in the City of Banning, and identified as Riverside County Tax Assessor's Parcel Number 532-120-011, which is described more particularly in Exhibit "A" and depicted on Exhibit "B" to the attached Grant Deed is hereby accepted under the authority of the City Council of the City of Banning, and the City of Banning hereby consents to the recordation thereof by its duly authorized officer.

City of Banning, a municipal corporation

Dated: ________________________

By: ____________________________

Douglas Schulze, City Manager

Attest:

By: ____________________________

Marie Calderon, City Clerk

Approved as to form:

By: ____________________________

Kevin Ennis, City Attorney
Exhibit "D"
Form of Temporary Construction Easement Agreement

Recording Requested by
and when recorded return to:

CITY OF BANNING
99 E. Ramsey Street
Banning, California 92220
Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Assessor's Parcel No. 532-120-011  [X] Portions

Documentary Transfer Tax $0.00

This Instrument is for the benefit of the City of Banning and is exempt from Recording Fees (Govt. Code § 27383), Filing Fees (Govt. Code § 6103), and Documentary Transfer Tax (Rev & Tax Code § 11922).

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This Temporary Construction Easement Agreement ("TCE Agreement") is entered into by and between HUMBERTO RAMIREZ AND EULOGIA R. RAMIREZ, AS CO-TRUSTEES OF THE HUMBERTO AND EULOGIA R. RAMIREZ FAMILY LIVING TRUST, U/A DATED MAY 29, 2013 ("Grantors") and the CITY OF BANNING, a California municipal corporation ("City" or "Grantee") and is effective as of the date it is fully executed by the Parties.

This TCE Agreement is based on the following facts, which are incorporated herein by this reference:

A. Grantors are the record fee owner of that certain real property located at 1909 E. Ramsey Street in the City of Banning, State of California, identified as Riverside County Tax Assessor's Parcel Number 532-120-011 ("Larger Parcel"). The Larger Parcel is approximately 0.35 acres (15,073 square feet) in size and consists of a vacant commercial lot located on the north side of E. Ramsey Street, east of N. Hathaway Street.

B. Grantors and City have entered into a Purchase and Sale Agreement ("Purchase Agreement") for City's purchase in fee of an approximate 2,490 square foot portion of Grantors' Larger Parcel for public use, namely public street purposes and all uses necessary or convenient thereto in connection with the Ramsey-Hathaway Street Improvement Project ("Project"). The Project will improve circulation in this area of the City. The Project, as planned and designed, will widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project will also widen Hathaway Street from Ramsey Street approximately 1,400 feet north. Further, the Project will construct a new 12-inch ductile iron water line along Ramsey Street.
C. Pursuant to the Purchase Agreement, City is also purchasing the approximate 1,358 square foot temporary construction easement described below for a term of nine months on the Larger Parcel to facilitate the construction of the Project. City’s use of the TCE is subject to the terms and conditions of this TCE Agreement.

NOW THEREFORE, for a valuable consideration, receipt and sufficiency of which are hereby acknowledged, Grantors and City agree to the following:

1. **Grant of 1,358 Square Foot Temporary Construction Easement.** Grantors hereby grant to City, its contractors, agents, representatives, employees, and all others reasonably deemed necessary by City (“City Designees”), that certain approximate 1,358 square foot Temporary Construction Easement more particularly described on Exhibit “A” and depicted on Exhibit “B” hereto (“TCE”) in, over, under and across the Larger Parcel for a term of nine months. Exhibit “A” and Exhibit “B” are attached hereto, and incorporated herein by this reference.

2. **Term.** The term of the TCE will commence thirty calendar days from the date that the City provides written notice to Grantors that it intends to commence construction of the Project. The thirtieth calendar day after the date of the City’s notice is the “commencement date” of the TCE. The TCE will terminate automatically nine months from the commencement date (“termination date”). City is authorized to use the approximate 1,358 square foot TCE from the commencement date to the termination date to facilitate City’s construction of the Project. The temporary construction easement will expire on the earlier of (i) the termination date or (ii) the date on which City records a notice of termination of the Temporary Construction Easement in the Official Records of the County of Riverside.

3. **Option to Extend Term.** The City has the option to extend the term of the TCE by up to six months provided that the City provides Grantors written notice 15 calendar days before the termination date (as defined in 2) notifying Grantors that the City wishes to exercise the option to extend the term by up to six months. During any such extension period, the Parties agree that the City will pay to Grantors the sum of $46.72 per month for any portion of a month in which the City continues to use the TCE. The monthly compensation is based on compensation at $4.13 per square foot with a net annual rate of return of ten percent. Thus, if the City uses the TCE for an additional 2.3 months, the City will pay Grantors the sum of $140.16, which represents the compensation for three months ($46.72 x 3 months, rounded). The City will pay any such compensation for the extension term within 30 calendar days of the date on which the City’s use of the TCE terminates.

4. **Scope of Temporary Construction Easement.** The 1,358 square foot TCE is for the use by City Designees for the above-referenced approximate nine-month period to facilitate City’s construction of the Project, including construction of street, utility, and drainage improvements in the new right of way, construction staging purposes, and storage of material and equipment on the TCE, if necessary. The construction staging purposes include, but are not limited to, the use of the TCE to facilitate the movement of construction equipment for the construction of the Project, storage and assembly of equipment and materials, ingress and egress, and any related support activities to facilitate the construction of the Project.
5. **No Liens.** City agrees to keep the approximate 1,358 square foot TCE and the Larger Parcel free of any liens, including without limitation, liens by contractors, subcontractors, or suppliers, engineers, architects, surveyors, or others that may have lien rights for work arising out of City’s use of the TCE in connection with the construction of the Project. If any such lien is filed on the TCE or any portion of the Larger Parcel in connection with City’s use of the TCE, City will, at its sole cost and expense, have the lien released and discharged of record in a matter satisfactory to Grantors within 30 calendar days of receiving notice of the lien. If City fails to remove the lien within such 30-day period, Grantors will have the right to remove or bond over the lien, and City, upon demand, will reimburse Grantors for all reasonable costs and expenses, including without limitation reasonable attorneys’ fees incurred by Grantors in connection with such removal or bond.

6. **City’s Obligations at End of Term.** City agrees that as of the termination date of the TCE, City will leave the TCE in as close as possible to the condition in which said TCE existed at the commencement date, including removal of any equipment and materials stored on the TCE in connection with the Project. Further, upon the expiration of the term of the TCE, City agrees to take such actions as reasonably necessary to evidence and give effect to the extinguishment of the TCE and the relinquishment of City’s rights and interests in the TCE pursuant to this TCE Agreement, including, without limitation, City will record at City’s expense, such termination or extinguishment as is in form and substance reasonably acceptable to Grantors and sufficient to remove this TCE Agreement as an encumbrance against title.

7. **Warranties.** City warrants that on the completion of its use of the TCE, and following removal of any construction equipment and facilities and cleanup required by Section 5, it shall cause its contractor to leave the TCE area in a neat manner conforming to the natural appearance of the TCE area prior to City’s use of said area.

8. **Insurance.** Prior to entry onto the approximate 1,358 square foot TCE area, City will procure and maintain (and cause City’s contractor for the Project to procure and maintain) a policy of commercial general liability insurance issued by an insurer reasonably satisfactory to Grantors covering the use by and activities of City and City’s Designees with a single limit of liability (per occurrence and aggregate) of not less than $2,000,000, and to deliver to Grantors a certificate of insurance and copy of additional insured endorsement naming Grantors as additional insured, evidencing that such insurance is in force and effect, and evidencing that Grantors have been named as an additional insured thereunder with respect to the use by Grantee and Grantee’s Designees of the TCE. Such insurance will be maintained in force throughout the term of this Temporary Construction Easement.

9. **City’s Agreement to Indemnify.** City will, and will cause its contractor for the proposed Project to, indemnify, defend and hold Grantors harmless from any and all liability for loss, damages, costs, expenses, demands, causes of action, claims or judgments, arising from or arising out of or in any way connected with the entry, access and use of the TCE by said contractor and its designee in connection with the exercise of the rights of the contractor and its designee under this TCE Agreement or any breach of City’s or City’s contractor’s obligations under this TCE Agreement, and will reimburse Grantors for all reasonable costs, expenses and losses, including reasonable attorneys’ fees, incurred by Grantors in consequence of any claims, demands and causes of action that may be made or brought against Grantors arising out of the entry on and
use of the area comprising the TCE by said contractor and/or its designees in connection with the Project or any breach of City's or its contractor's obligations under this TCE Agreement.

10. **Notices.** All notices and demands will be given in writing by certified mail, postage prepaid, and return receipt requested, by personal delivery, or by Federal Express. Notices will be considered given upon the earlier of (a) personal delivery, (b) two business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested, or (c) one business day following deposit with Federal Express. The Parties will address such notices as provided below or as may be amended by written notice:

**GRANTEE:**
City of Banning  
99 E. Ramsey Street  
Banning, California 92220  
Attention: City Manager

**COPY TO:**
Richards, Watson & Gershon  
355 South Grand Avenue  
40th Floor  
Los Angeles, California 90071-3101  
Attention: Kevin Ennis, City Attorney

**GRANTORS:**
Humberto Ramirez and Eulogia R. Ramirez,  
as Co-Trustees of The Humberto and Eulogia R. Ramirez Family Living Trust u/a dated May 29, 2013  
410 Avignon Court  
Riverside, California 92501-1202

11. **Miscellaneous Provisions.**

11.1 **Governing Law.** This TCE Agreement is deemed to have been prepared by each of the Parties hereto, and any uncertainty or ambiguity herein shall not be interpreted against the drafter, but rather, if such uncertainty or ambiguity exists, shall be interpreted according to the applicable rules of interpretation of contracts under the laws of the State of California, and not the substantive law of another state or the United States or federal common law. This TCE Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

11.2 **Entire Agreement.** This TCE Agreement, together with the Purchase Agreement, contains the entire agreement between Grantors and Grantee regarding the TCE. No person is authorized to make, and by execution hereof Grantors and Grantee acknowledge that no person has made, any representation, warranty, guaranty or promise except as set forth herein; and any such agreement, statement, representation or promise not contained in said Purchase Agreement and this TCE Agreement will not be binding on Grantors or City.
11.3 Amendments. Any amendments to this TCE Agreement will be effective only by a writing executed by all Parties to this TCE Agreement.

11.4 Successors and Assigns. This TCE Agreement will be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties hereto.

11.5 Counterparts, Facsimile and Electronic Signatures. This TCE Agreement may be executed in whole or in counterparts, which together shall constitute the entire Agreement. Facsimile or electronic signatures/countersignatures to this TCE Agreement shall be effective as if the original signed counterpart were delivered.

11.6 Legal Representation. Each of the Parties acknowledge that in connection with the negotiation and execution of this TCE Agreement, they have each been represented by independent counsel of their own choosing and executed this Agreement after review by such independent counsel, or, if they were not so represented, said non-representation is and was the voluntary, intelligent and informed decision and election of any of the Parties not so represented. The Parties further acknowledge that, prior to executing this TCE Agreement, each of the Parties has had an adequate opportunity to conduct an independent investigation of all the facts and circumstances with respect to the matters that are the subject of said Agreement.

11.7 Attorneys' Fees. If either of the Parties hereto incurs attorneys' fees in order to enforce, defend or interpret any of the terms, provisions or conditions of this TCE Agreement or because of a breach of this TCE Agreement by the other party, the prevailing party, whether by suit, negotiation, arbitration or settlement will be entitled to recover reasonable attorneys' fees from the other party.

11.8 Severability. If any part, term or provision of this TCE Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if this TCE Agreement did not contain the particular part, term or provision held to be invalid.

[SIGNATURES ON NEXT PAGE]
IN WITNESS WHEREOF, Grantors and City have entered into this TCE Agreement as of the date set forth below.

GRANTORS

Dated: ________________________

By: ____________________________
Humberto Ramirez, Co-Trustee of The Humberto and Eulogia R. Ramirez Family Living Trust u/a dated May 29, 2013

Dated: ________________________

By: ____________________________
GRANTEE
City of Banning, a municipal corporation

Dated: ______________________

By: ______________________
    Douglas Schulze, City Manager

ATTEST:

By: ______________________
    Marie Calderon, City Clerk

APPROVED AS TO FORM:

_________________________
    Kevin Ennis, City Attorney
Exhibit “A”
Legal Description of Temporary Construction Easement

EXHIBIT “A”
TEMPORARY CONSTRUCTION EASEMENT - A.P.N. 532-120-011

THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE CITY OF HANFORD, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL Plat THEREOF, WITHIN THE LAND DESCRIBED IN A GRANT DEED TO HUMBERTO RAMIREZ RECORD April 1, 2011 AS DOCUMENT NO. 2011-0145549 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED REFERENCE LINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF RAMSEY STREET AND HATHAWAY STREET AS SHOWN ON A RECORD OF SURVEY FILED IN BOOK 11, PAGE 24 OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE, ALONG SAID CENTERLINE OF HATHAWAY STREET, NORTH 00°03'38" EAST, 1635.00 FEET TO THE NORTHEASTERLY CORNER OF PARCEL 1 AS DESCRIBED IN A GRANT DEED TO OSI PARTNERSHIP 1, LLC, RECORDED APRIL 10, 2006 AS DOCUMENT NO. 2006-0178325, OFFICIAL RECORDS OF SAID COUNTY, AND THE POINT OF BEGINNING;

THENCE, ALONG THE NORTHERLY LINE OF SAID PARCEL 1 AS DESCRIBED IN A GRANT DEED TO OSI PARTNERSHIP 1, LLC, SOUTH 89°15'37" EAST, 52.00 FEET TO A LINE PARALLEL WITH AND 52.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 125.99 FEET;

THENCE, SOUTH 89°56'22" EAST, 1.00 FEET TO A LINE PARALLEL WITH AND 53.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 29.50 FEET;

THENCE, SOUTH 89°56'22" EAST, 1.00 FEET TO A LINE PARALLEL WITH AND 54.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 99.85 FEET;

THENCE, SOUTH 44°59'49" EAST, 43.56 FEET;

THENCE, SOUTH 00°03'16" EAST, 61.19 FEET;

THENCE, SOUTH 45°00'11" WEST, 40.99 FEET TO A LINE PARALLEL WITH AND 56.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 126.26 FEET TO THE NORTHERLY LINE OF PARCEL 6 DESCRIBED IN A GRANT DEED TO LOUIS S. LOPEZ, TRUSTEE OF THE LOUIS S. LOPEZ TRUST, RECORDED DECEMBER 5, 2006 AS DOCUMENT NO. 2006-0889568, OFFICIAL RECORDS OF SAID COUNTY;

THENCE, ALONG SAID NORTHERLY LINE, NORTH 89°14'00" WEST, 1.00 FEET TO A LINE PARALLEL WITH AND 55.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03'38" WEST, 288.84 FEET;

1 OF 5
EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT – A.P.N. 532-120-011

THERENCE, SOUTH 89°56’22" EAST, 2.00 FEET TO A LINE PARALLEL WITH AND 57.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THERENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03’38" WEST, 69.37 FEET;

THERENCE, NORTH 89°56’22" WEST, 1.00 FEET TO A LINE PARALLEL WITH AND 56.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THERENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03’38" WEST, 105.38 FEET;

THERENCE, SOUTH 53°55’49" EAST, 11.13 FEET;
THERENCE, SOUTH 00°03’38" WEST, 34.32 FEET;
THERENCE, SOUTH 51°09’30" WEST, 12.85 FEET TO A LINE PARALLEL WITH AND 55.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THERENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03’38" WEST, 219.93 FEET;

THERENCE, SOUTH 38°57’16" EAST, 14.30 FEET;
THERENCE, SOUTH 00°03’38" WEST, 34.56 FEET;
THERENCE, SOUTH 61°37’51" WEST, 10.23 FEET TO A LINE PARALLEL WITH AND 55.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THERENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03’38" WEST, 39.62 FEET TO THE SOUTHERLY LINE OF PARCEL 2 DESCRIBED IN SAID GRANT DEED TO LOUIS S. LOPEZ, TRUSTEE OF THE LOUIS S. LOPEZ TRUST, RECORDED DECEMBER 5, 2006 AS DOCUMENT NO. 2006-6889569;

THERENCE, ALONG SAID SOUTHERLY LINE, SOUTH 89°07’14" EAST, 9.00 FEET TO A LINE PARALLEL WITH AND 64.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THERENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03’38" WEST, 39.71 FEET;

THERENCE, SOUTH 49°31’47" WEST, 9.21 FEET TO A LINE PARALLEL WITH AND 57.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THERENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03’38" WEST, 52.53 FEET;

THERENCE, SOUTH 01°47’23" WEST, 66.27 FEET TO A LINE PARALLEL WITH AND 55.00 FEET EASTERLY OF SAID CENTERLINE OF HATHAWAY STREET;

THERENCE, ALONG SAID PARALLEL LINE, SOUTH 00°03’38" WEST, 57.98 FEET;

THERENCE, SOUTH 50°12’34" EAST, 21.36 FEET TO A LINE PARALLEL WITH AND 74.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

THERENCE, ALONG SAID PARALLEL LINE, SOUTH 89°07’14" EAST, 93.57 FEET TO THE WESTERNLY LINE OF PARCEL 1 OF THE CORPORATION GRANT DEED RECORDED

2 OF 5
EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT - A.P.N. 532-120-011

MAY 9, 2011 AS DOCUMENT NO. 2011-0204495, OFFICIAL RECORDS OF SAID COUNTY;

THENCE, ALONG SAID WESTERLY LINE, SOUTH 00°03'38" WEST, 9.00 FEET TO A LINE PARALLEL WITH AND 65.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 89°07'14" EAST, 117.32 FEET;

THENCE, NORTH 00°03'38" EAST, 10.99 FEET;
THENCE, SOUTH 89°56'22" EAST, 65.00 FEET;
THENCE, SOUTH 00°03'38" WEST, 20.83 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 212.00 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 06°12'06" EAST;

THENCE, EASTERLY 1.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°23'05"

THENCE, SOUTH 82°24'49" EAST, 78.70 FEET TO THE EASTERLY LINE OF SAID PARCEL 1 OF THE CORPORATION GRANT DEED RECORDED MAY 9, 2011 AS DOCUMENT NO. 2011-0204495;

THENCE, ALONG SAID EASTERLY LINE, NORTH 00°03'38" EAST, 10.20 FEET;
THENCE, SOUTH 89°56'22" EAST, 42.00 FEET;
THENCE, SOUTH 00°23'37" EAST, 12.72 FEET TO A LINE PARALLEL WITH AND 55.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 89°07'14" EAST, 78.89 FEET TO THE WESTERLY LINE OF PARCEL 3 DESCRIBED IN SAID GRANT DEED TO LOUIS S. LOPEZ, TRUSTEE OF THE LOUIS S. LOPEZ TRUST, RECORDED DECEMBER 5, 2006 AS DOCUMENT NO. 2006-0889568;

THENCE, ALONG SAID WESTERLY LINE, NORTH 00°03'38" EAST, 14.00 FEET TO A LINE PARALLEL WITH AND 69.00 FEET NORTHERLY OF SAID CENTERLINE OF RAMSEY STREET;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 89°07'14" EAST, 42.66 FEET;
THENCE, SOUTH 81°14'46" EAST, 21.31 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 664.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 01°48'41" WEST;

THENCE, EASTERLY 86.41 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°11'48" TO A NON-TANGENT LINE AND TO WHICH A RADIAL LINE BEARS SOUTH 06°23'07" EAST;

THENCE, ALONG SAID NON-TANGENT LINE, NORTH 00°03'38" EAST, 2.01 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A
EXHIBIT “A”
TEMPORARY CONSTRUCTION EASEMENT - A.P.N. 532-120-011

RADIUS OF 602.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH
06°24'24" EAST;

THENCE, EASTERNLY 59.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE
OF O5°38'47" TO A NON-TANGENT LINE AND TO WHICH A RADIAL LINE BEARS
SOUTH 12°03'11" EAST;

THENCE, ALONG SAID NON-TANGENT LINE, NORTH 72°27'02" EAST, 27.32 FEET
TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A
RADIUS OF 600.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH
14°39'03" EAST;

THENCE, EASTERNLY 10.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE
OF 01°01'26";

THENCE, NORTH 74°19'31" EAST, 57.22 FEET;
THENCE, SOUTH 00°03'38" WEST, 4.16 FEET;
THENCE, NORTH 74°19'31" EAST, 35.48 FEET;
THENCE, NORTH 63°02'37" EAST, 56.23 FEET;
THENCE, NORTH 74°19'31" EAST, 12.45 FEET TO THE EASTERNLY LINE OF
PARCEL 5 DESCRIBED IN SAID GRANT DEED TO LOUIS S. LOPEZ, TRUSTEE
OF THE LOUIS S. LOPEZ TRUST, RECORDED DECEMBER 5, 2006 AS DOCUMENT NO.
2006-0889568;

THENCE, ALONG SAID EASTERNLY LINE, SOUTH 00°22'48" WEST, 7.28 FEET;

THENCE, NORTH 74°19'31" EAST, 90.54 FEET TO THE EASTERNLY LINE OF SAID
LAND DESCRIBED IN A GRANT DEED TO HUMBERTO RAMIREZ RECORDED APRIL 1,
2011 AS DOCUMENT NO. 2011-0145549;

THENCE, CONTINUING NORTH 74°19'31" EAST, 22.89 FEET;
THENCE, NORTH 82°52'09" EAST, 40.39 FEET;

THENCE, NORTH 74°19'31" EAST, 53.02 FEET TO THE WESTERNLY LINE OF THE
LAND DESCRIBED IN A GRANT DEED TO GARY CARLTON AND WENDY CARLTON,
TRUSTEES OF THE GARY AND WENDY CARLTON LIVING TRUST, RECORDED MARCH 8,
2005 AS DOCUMENT NO. 2006-0165322, OFFICIAL RECORDS OF SAID COUNTY;

THENCE, ALONG SAID WESTERNLY LINE, SOUTH 00°22'48" WEST, 2.08 FEET;

THENCE, NORTH 74°19'31" EAST, 36.50 FEET;
THENCE, NORTH 81°52'04" EAST, 42.65 FEET;
THENCE, NORTH 70°54'14" EAST, 45.42 FEET TO THE BEGINNING OF A CURVE
CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 365.00 FEET;

THENCE, NORTHEASTERLY 60.28 FEET ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF 09°27'43" TO THE EASTERNLY LINE OF SAID WEST HALF OF THE
NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST,

4 OF 5
EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT - A.P.N. 532-120-011

THENCE, ALONG SAID EASTERLY LINE, SOUTH 00°22'46" WEST, 240.39 FEET TO THE SOUTHERLY LINE OF SAID NORTHWEST QUARTER OF SECTION 11 AND THE TERMINUS OF THE REFERENCE LINE.

EXCEPTING THEREFROM THAT PORTION INCLUDED WITHIN THE RIGHT-OF-WAY DEDICATION TO THE CITY OF BANNING RECORDED __________, AS DOCUMENT NO. ______________, OFFICIAL RECORDS OF SAID COUNTY.

CONTAINING 1,258 SQUARE FEET, MORE OR LESS.

ALSO AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND HEREBY MADE A PART HEREOF.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS, AND RIGHTS-OF-WAY OF RECORD, IF ANY.

PREPARED BY: STANTEC CONSULTING INC.
UNDER THE DIRECTION OF:

MINH A, LE, P.L.S. 8543

MARCH 7, 2018
J.N. 2073 013430
Exhibit “B”
Depiction of Temporary Construction Easement
EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT - APN 532-120-011

SEE SHEETS 3 & 4

PARCEL 2
APN 532-120-002
W 1/2, NW 1/4, SECTION 11
T. S. S., R. 1 E., S.B.M.

O.R. 2006-0889568
R.S. 11/24

PARCEL 3
APN 532-120-008

SEE SHEET 5

CURVE TABLE

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LINE TABLE

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LINE TABLE

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<tr>
<td>L25</td>
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SCALE: 1" = 100'
**EXHIBIT "B"**

**TEMPORARY CONSTRUCTION EASEMENT – APN 532-120-011**

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### LINE TABLE

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**SCALE:** 1" = 100'

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W 1/2, NW 1/4, SECTION 11
T. 3 S., R. 1 E., S.B.M.

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**SEE SHEET 1**

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**781**

Exhibit "B"
Page 3 of 5
EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT - APN 532-120-011

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SCALE: 1" = 100'
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

) ) ss.
County of Riverside

On __________________________ before me, ___ 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, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) 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 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: __________________________

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: __________________________
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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State of California )
County of Riverside ) ss.

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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, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

Signature: __________________________________________________________

Signature of Notary Public: __________________________________________

Place Notary Seal Above

OPTIONAL

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☐ 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: ____________________________
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State of California

County of Riverside

On __________________________ before me, ____, 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, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

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Signature: __________________________
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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☐ Corporate Officer – Title(s): __________________________

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other:

Signer’s Name: __________________________

Signer Is Representing: __________________________

☐ Corporate Officer – Title(s): __________________________

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other:
TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Director of Public Works
Holly Stuart, Management Analyst

MEETING DATE: February 26, 2019

SUBJECT: Adopt Resolution 2019-XX, Awarding a Professional Services Agreement for the Design of the North San Gorgonio Avenue Building Demolition and Parking Lot Improvements to Cozad & Fox, Inc. in the amount of $59,960

RECOMMENDED ACTION:

Staff recommends that the City Council adopt Resolution 2019-XX:

1. Awarding a Professional Services Agreement for the Design of the North San Gorgonio Avenue Building Demolition and Parking Lot Improvements located at 128 N. San Gorgonio Avenue and Assessors Parcel Number 541-141-005 to Cozad & Fox, Inc. in the amount of $59,960.

2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement for the Design of the San Gorgonio Building Demolition and Parking Lot Improvements.

3. Authorizing the City Manager or his designee to execute the Professional Services Agreement with Cozad & Fox, Inc. of Hemet, California in the amount of $59,960.

BACKGROUND:

The City of Banning Successor Agency owns Assessor Parcel Number (APN) 541-141-013 located at 128 N. San Gorgonio Avenue and is identified in the 2013 Long Range Property Management Plan to be developed as a parking.
Furthermore, on April 10, 2018 under Resolution 2018-33, the Purchase of Real Property for APN 541-141-005 was approved and the Purchase Agreement was executed. The intent of purchasing APN 541-141-005 was to combine the properties for the development of a parking lot.

In an effort to proceed with the project, staff prepared the design services scope of work which includes the preparation of a structural demolition plan and design of a parking lot inclusive of curbs, gutters, sidewalks, pavement, striping, signage, lighting and landscaping. The scope of work also included the preparation of a Water Quality Management Plan (WQMP) for compliance with storm water regulations.

On December 14, 2018, staff released an Invitation for Bid (IFB) 19-020 for the design of building demolition and parking lot improvements to six (6) consultants on the on-call engineering list approved by City Council on April 25, 2017 under Resolution 2017-39 with proposals being due on January 17, 2019. In response to these efforts, one (1) proposal was received by Cozad & Fox, Inc.

Cozad & Fox, Inc. is a reputable qualified firm that has successfully provided services to the City in the past and as a result, staff recommends the contract award to Cozad & Fox, Inc. in the amount of $59,960.

**JUSTIFICATION:**

The abovementioned parcels have been identified for the development of a parking lot by the 2013 Long Range Property Management Plan, City Council and/or Economic Development Ad Hoc Committee.

If approved, the final product of the services to be provided will be plans and specifications needed for construction bidding purposes.

**FISCAL IMPACT:**

The expenditure will be funded by the BEA Capital Projects Fund, Account 840-9500-490.90-07.

**ALTERNATIVE:**

Reject Resolution 2019-XX and provide direction to staff.

**ATTACHMENTS:**

1. Resolution 2019-XX
2. Staff Report and Resolution 2017-05
3. Property Exhibit
Approved by:

[Signature]

Douglas Schulze
City Manager
RESOLUTION 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE SAN GORGONIO BUILDING DEMOLITION AND PARKING LOT IMPROVEMENTS TO COZAD & FOX, INC. IN THE AMOUNT OF $59,960

WHEREAS, the City of Banning Successor Agency owns Assessor Parcel Number (APN) 541-141-013 located at 128 N. San Gorgonio Avenue which has been identified in the 2013 Long Range Property Management Plan as a proposed property to be retained by the City of Banning for the development of a parking lot; and

WHEREAS, on April 10, 2018 under Resolution 2018-33, the Purchase of Real Property at 162 N. San Gorgonio Avenue (APN 541-141-005) was approved and the Purchase Agreement was executed in an effort to revitalize the downtown area and combined it with APN 541-141-013 for the development of a parking lot; and

WHEREAS, the project scope for design services includes the preparation of a structural demolition plan and design of a parking lot inclusive of curbs, gutters, sidewalks, pavement, striping, signage, lighting and landscaping design plan; and

WHEREAS, on December 14, 2018, staff released Invitation for Bid (IFB) 19-020 for the design of a building demolition and parking lot improvement project to six (6) consultants on the on-call engineering list approved by City Council on April 25, 2017 under Resolution 2017-39 with proposals being due on January 17, 2019 and in response to these efforts, one (1) proposal was received by Cozad & Fox, Inc.; and

WHEREAS, Cozad & Fox, Inc. is a reputable qualified firm that has successfully provided services to the City in the past and as a result, staff recommends the contract award to Cozad & Fox, Inc. in the amount of $59,960.

WHEREAS, the expenditure will be funded by Account No. 840-9500-490.90-07.

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


SECTION 2. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

SECTION 3. The City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement.
SECTION 4. The City Manager or his designee is authorized to execute the Professional Services Agreement as to form approved by the City Attorney.

PASSED, APPROVED AND ADOPTED this 26th day of February, 2019.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-120, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of September, 2018, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

________________________
Daryl Betancur, Deputy City Clerk
City of Banning, California
ATTACHMENT 2
Resolution 2017-05
TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Ted Shove, Economic Development Manager

MEETING DATE: January 10, 2017

SUBJECT: Discuss and Consider Adopting Resolution 2017-05, "Approving Environmental Remediation, Demolition of Existing Structure, and Construction of a Parking Lot for City-Owned Real Property Located at 128 N. San Gorgonio Avenue"

RECOMMENDATION:

That the City Council adopt Resolution 2017-05:

1. Approving environmental remediation, demolition of existing structure, and construction of a parking lot for City-owned real property located at 128 N. San Gorgonio Avenue.

2. Authorize staff to identify funding sources for the project.

3. Program into the 2017-18 fiscal year Capital Improvement Program.

JUSTIFICATION:

The Successor Agency recommended retention of 128 N. San Gorgonio Avenue, as identified in the Long Range Property Management Plan. The site was retained for ultimate use as a parking lot for City Hall.

BACKGROUND:

The Successor Agency to the Banning Community Redevelopment Agency ("Successor Agency") recommended disposition of certain real property assets. The recommendations were submitted, in the form of the Long Range Property
Management Plan (LRPMP) to the California Department of Finance and approved on January 28, 2015.

The City-owned real property located at 128 N. San Gorgonio Avenue (APN 541-141-013), consisting of one (1) 0.27 acre lot, is to be retained by the City for ultimate Government Use as a parking lot for City Hall. The City owns this asset in fee and is required to complete environmental analysis and abatement of lead-based paint and asbestos. Additionally, a parking lot is to be constructed after the existing structure is demolished.

By approving Resolution 2017-05, the City Council will formalize concurrence with the Successor Agency and direct staff to identify funding sources with the Public Works Ad hoc Committee before bringing forward a recommendation to fund the project in the FY 17 & 18 Capital Improvement Program.

OPTIONS:

1. Adopt Resolution 2017-05  
2. Reject Resolution 2017-05 and provide direction to staff.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

ATTACHMENT:

1. Resolution 2017-05  
2. Memorandum dated October 28, 2016 regarding physical site inspection and preliminary report of findings for 128 North San Gorgonio Avenue (APN 541-141-013)

Approved by:

Michael Rock  
City Manager
RESOLUTION 2017-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING ENVIRONMENTAL REMEDIATION, DEMOLITION OF EXISTING STRUCTURE, AND CONSTRUCTION OF A PARKING LOT FOR CITY-OWNED REAL PROPERTY LOCATED AT 128 N. SAN GORGONIO AVENUE; AUTHORIZE STAFF TO IDENTIFY FUNDING SOURCES FOR THE PROJECT; AND PROGRAM INTO THE 2017-18 FISCAL YEAR CAPITAL IMPROVEMENT PROGRAM

WHEREAS, on July 29, 2014, the Successor Agency to the Banning Community Redevelopment Agency submitted a Long-Range Property Management Plan (LRPMP) to the California Department of Finance (DOF), pursuant to Health and Safety Code Section 34191.5(b); and

WHEREAS, on January 28, 2015, the DOF approved the LRPMP, which included disposition of 128 N. San Gorgonio Avenue (APN 541-141-013) to include environmental remediation, demolition and construction of a parking lot facility for City Hall and retained as a Government Use; and

WHEREAS, on November 23, 2016, the City satisfied the outstanding financial obligation and now retains fee interest in 128 N. San Gorgonio Avenue; and

WHEREAS, the City intends to fulfill the obligations of the LRPMP by constructing a parking facility and reducing an existing blighted condition.

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

1. Resolution 2017-05 is approved authorizing environmental remediation, demolition of existing structure and construction of a parking facility at 128 N. San Gorgonio Avenue (APN 541-141-013); and

2. The City Council authorizes staff to identify funding and include the project in the 2017-18 Fiscal Year Capital Improvement Program.

PASSED, APPROVED AND ADOPTED this 10th day of January, 2017.

[Signature]
George Moyer, Mayor
City of Banning, California
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 2017-05 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 10th day of January, 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
ATTACHMENT 3

Property Exhibit
PROPOSAL FOR:
DESIGN OF BUILDING DEMOLITION
AND PARKING LOT IMPROVEMENTS
IFB NO. 19-020

Prepared for:
City of Banning
Public Works Department
Shiloh A. Rogers, Purchasing Manager
99 East Ramsey Street
Banning, CA 92220-0098
January 17, 2019

Shiloh A. Rogers  
Purchasing Manager  
City of Banning  
Public Works Department  
99 E. Ramsey Street  
Banning, CA 92220  

RE: PROPOSAL FOR CIVIL ENGINEERING AND LAND SURVEYING FOR DESIGN OF BUILDING DEMOLITION AND PARKING LOT IMPROVEMENTS, IFB 19-020

Dear Shiloh,

Cozad & Fox, Inc. is pleased to provide the following proposal to provide you and the City of Banning a constructible economical design. Cozad & Fox, Inc. can provide an exceptional design at an economical cost because we have visited the site and will utilize our extensive experience in parking lot design for the benefit of the City of Banning. For years we have had annual agreements to provide civil engineering and surveying services to EDA, Eastern Municipal Water District (EMWD) and Riverside County Transportation Department (RCTD). Because of this we already have a good idea of parking lot requirements and the design and construction constraints that we must meet. I will be personally managing this project for the City of Banning and have enlisted the help of Inland Foundation for the Geotechnical aspects of the project. If necessary, Cozad & Fox, Inc. intends to team with Hermann Design Group, Landscape Architects. We have also included to subcontract with RTM Engineering (formally MRC Engineering), Electrical Engineers, to prepare lighting plans. Some of our parking lot design experience includes:

- The EDA’s Hemet Regional Service Center Parking Lot where Cozad & Fox, Inc. provided civil engineering and surveying services to demo existing facilities, provide a secure parking area and Water Quality Management Facilities.

- The EDA’s Rubidoux Library where Cozad & Fox, Inc. provided civil engineering design and surveying services for parking lot design. The library site was constructed on a hill and required extensive drainage facilities and WQMP design.

- The City of Hemet Library where we again provided civil engineering and design services for the parking lot, ADA path of travel from initial conception through completion of construction.
• RCTD’s new Pedley Maintenance Yard in conjunction with the EDA, Cozad & Fox, Inc. was selected by both the RCTD and EDA to complete the site and parking lot design for the Pedley Maintenance Yard.

We have a successful track record working with the City of Banning and also drainage design in areas with challenging relief. We also have a successful track record working with the utility companies to eliminate surprises during construction so the contractor is not delayed.

It’s not just our design skills that make us a success with the City of Banning and other agencies, we understand schedules and budgets. We understand the Parking Lot Improvements are desperately needed and the project is a high priority and we will strive to provide professional services that will surpass your expectations.

We believe we have a good track record and we are more than willing to bring our team in to discuss how we can successfully help the City complete the Design of Building Demolition and Parking Lot Improvements.

Thank you,

Brian Fox, P.E., P.L.S.
President/ Principal
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APPENDIX “A” – Subconsultants Scope of Work and Fees / Resumes
PROFESSIONAL UNDERSTANDING

Cozad & Fox, Inc. is pleased to provide the following proposal for Engineering Design Services for the demolition of an existing structure and design of a parking lot. The project site is located at 128 N. San Gorgonio Avenue (APN: 541-141-013 & 541-141-005) and the combined lots amount to approximately 0.40 acres. Cozad & Fox, Inc. will prepare structural demolition plans, design a parking lot inclusive of curbs, gutters, sidewalks, pavement, striping, signage and lighting. An optional task for landscaping design is included. Cozad & Fox, Inc. intends to subcontract with Hermann Design Group for the Landscaping Plans.

PROJECT APPROACH

Upon award of the project, the team of Cozad & Fox, Inc. will initially meet with the City's Project Manager and discuss demolition and parking lot improvements. Our focus will be to incorporate Water Quality Management Plan (WQMP) early in the design process. The WQMP will affect the Parking Lot Plans. We will also focus on drought tolerant landscaping, this will affect the civil plans related to Grading. If necessary, Hermann Design Group will develop the Landscape Plans.

Brian Fox, R.C.E., P.L.S., will be the Principal in Charge and will maintain close communication between our Project Manager, Robert Ollerton, L.S. and the City's Project Manager. Our team will provide weekly updates to the City's Project Manager and presentations at the City Council as requested. Our team will actively engage in Phase Review with the City at various stages of the plan and document development process. Phase reviews are preliminary to occur at 30%, 60% and 90%. Additional reviews and submittals may be required as direct by the City.

QUALITY ASSURANCE PROGRAM (QA/QC)

Cozad & Fox, Inc. has provided civil engineering design and construction surveying services within Riverside County for the past 40 years. During that time Cozad & Fox, Inc. has developed practices and standards which ensure the greatest level of quality.

- Cozad & Fox, Inc. will maintain close communication between the City and all staff and consultants.
- As Principal in Charge, Brian Fox R.C.E., P.L.S. will review all staff decisions, designs, services and communications for this project. Furthermore, Brian will be the Engineer of Record (EOR). Brian Fox is a licensed, professional engineer responsible for the direct control and personal supervision of engineering work. Robert Ollerton, L.S., will be the Project Manager. Brian and Robert will be
focused on the project to address issues and keep the City informed. If necessary, Chris Hermann will coordinate directly with City staff for the revised Landscape Plans.

- To provide the greatest plan and document quality Cozad & Fox, Inc. will ensure the following:
  - That the plans are double checked with separate in-house review, and documents are accurate and a thorough representation of the existing project conditions, site features and terrain features.
  - Proposed plans and documents are an accurate and thorough representation of the design intent and contain sufficient details for constructability.
  - That the plans and documents are supported by a thorough and detailed review, documented development process; developed from 40 years of experience.
  - That the plans and documents are developed with the active involvement from City staff and consultants throughout the project.
  - That the plans will be developed and will comply with all standards and guidelines set by the Americans with Disabilities Act and Accessibility Guidelines (A.D.A.A.G).
  - Construction staking will be double checked and cut-sheets submitted to City Inspectors.
  - Coordination with contractor and inspectors to ensure the City receives a quality parking lot.
SCOPE OF WORK

Cozad & Fox, Inc. will provide the following services as outlined by the City:

1. PROJECT ADMINISTRATION, RESEARCH, REVIEW AND KICK-OFF MEETING
   Cozad & Fox, Inc. will review project scope with the City of Banning’s Project Manager. Review existing site conditions, civil plans and site surveys. Meet with the City to initiate the project, discuss project programming, preliminary plans, design objectives and cost estimates. Cozad & Fox, Inc. will coordinate revisions and corrective concepts with the City. Cozad & Fox, Inc. and anticipates (3) three meetings with the City’s Project Staff to discuss current progress, current design and future design. The three meetings shall coincide with project milestones and/or monthly intervals. Cozad & Fox, Inc. will prepare monthly progress reports during the design phase.

2. TOPOGRAPHIC AND BOUNDARY SURVEY
   Cozad & Fox, Inc. will perform a topographic field survey that will provide sufficient topographic mapping for subsequent engineering. The field topographic field survey will include sufficient spot elevations and location data at key points to accurately model the existing surface. The survey will also locate existing features such as buildings, improvements, sidewalk, pavements, hardscaping, medium to large trees and shrubs, and other features necessary to characterize the terrain for design.

3. PARCEL MERGER
   Cozad & Fox, Inc. will prepare the legal description of the project parcels and develop exhibits illustrating the proposed merger. The Parcel Merger application for adjusting the lot line between APN’s: 541-141-013 and 541-141-005 to be submitted to the City of Banning for review and approval.
WATER QUALITY MANAGEMENT PLAN (WQMP)

Cozad & Fox, Inc. will prepare a WQMP, by Brian Fox, R.C.E., L.S. is a qualified QSP/QSD and will oversee the WQMP preparation. Cozad & Fox, Inc. will develop the WQMP, utilizing the Whitewater Region NPDES permit and the Whitewater River template.

GRADING PLAN

Cozad & Fox, Inc. will develop a detailed Grading Plans for compliance with the WQMP and City requirements. The plans will be prepared using computer aided design software (AutoCAD) and will be printed on 24x36 paper. Final plans on mylar submittal will be signed by a California Registered Professional Engineer.

Cozad & Fox, Inc. will submit the detailed grading plans, special conditions and technical specifications. All drawings and specifications will comply with all applicable requirements of the American with Disability Act and Accessibility Guidelines (A.D.A.A.G.) and all current applicable State and local codes. The Grading Plan will be developed at a scale of 1"=20'.

CONSTRUCTION SURVEYING SERVICES

Cozad & Fox, Inc. will provide construction surveying, staking and support throughout the project. Construction staking will include: sidewalks, curbs, parking lots, ramps, signage, striping, and appurtenances. Cozad & Fox, Inc. will provide at a minimum, one (1) set of staking calculations and cut sheets.

GEOTECHNICAL REPORT

Cozad & Fox, Inc. will utilize the services of Inland Foundation, Inc. to perform an investigation and prepare a soils analysis identifying potential impacts and recommendations that will be used for engineering and construction purposes. An optional task is also provided for Infiltration Testing.

UTILITY RESEARCH

Cozad & Fox, Inc. will provide utility research to obtain and plot the overhead and underground utility plans from the utility surveyors along the parking lot.

STRUCTURAL DEMOLITION PLAN

Cozad & Fox, Inc. will prepare demolition plan for the existing structure. The demolition plan will direct the contractor to incorporate applicable State or local laws and material recycling requirements.
FINAL PLANS, SPECIFICATIONS AND ESTIMATES
Cozad & Fox, Inc. will prepare and provide bid construction documents, project specifications and final cost estimates. It is anticipated that the project plan set will include: Title Sheet, Demo Plans, Grading Plans, Paving & Striping and Signage Plans and Lighting Plans.

Cozad & Fox, Inc. will provide the City of Banning with:
- The 50% Conceptual Design and Drainage Study and provide 3 sets and electronic submittal.
- The 75% Preliminary Design and provide 3 sets and electronic submittal; 2 paper copies of WQMP, and provide an electronic submittal for the City staff to review. Prepare construction cost estimates for the City’s review.
- The 90% Detailed Design and provide 3 sets and WQMP for City review and comment.
- The 100% Final PS&E and include construction cost estimate, plans and specifications and Base Bide Schedules, 3 sets of project documents, Civil Engineer wet stamp and signatures on mylars and all final documents, including Specifications and WQMP.

BID PHASE ASSISTANCE
Cozad & Fox, Inc. will prepare and pre-bid conference and prepare agenda and meeting minutes. Assist the City staff in answering questions during the bidding phase (RFI’s), prepare addendums and conduct a pre-bid conference, evaluate bids submitted by contractors and subcontractors.

CONSTRUCTION PHASE ASSISTANCE
The team of Cozad & Fox, Inc. and if needed, Hermann Design Group, Inc. will answer requests for information (RFI’s), review required submittals and assume 5 site visits during the construction phase.

"AS-BUILT" PLANS
Cozad & Fox, Inc. will prepare final field “as-built” construction drawings on mylar and AutoCad format to the City’s Project Manager. The “as-built” drawings incorporate any changes that occurred during construction.
PARKING LOT LIGHTING PLAN
Cozad & Fox, Inc. and RTM Engineering Consultants (formally MRC Engineering), will provide:
- Electrical plans and specifications for the lightning additions to the parking lot.
- Perform an initial site visit as required to review the existing system.
- Provide electrical engineering plans for the electrical system.
- Prepare design and plans for building department submittal and construction issuance.
- Prepare electrical specifications on the drawings as part of the electrical set.

OPTIONAL TASKS

LANDSCAPING PLANS
Cozad & Fox, Inc. will utilize the services of Hermann Design Group, Inc. and will provide:
- Planting Plans and Details
- Irrigation Plan and Details
- Specifications
- Agency Approvals
Landscaping plans will be developed to include drought tolerant plants. Irrigation plans will be developed to include drip irrigation and micro-spray systems and promote water conservation. Hermann Design Group will also provide updates to products/materials.

GEOTECHNICAL INFILTRATION TESTING
If required Inland Foundation, Inc. will provide the infiltration testing. This will include the excavation equipment, field exploration and testing and the infiltration report.
EXPERIENCE WITH SIMILAR PROJECTS

HEMET REGIONAL SERVICE CENTER, PARKING LOT EXPANSION PROJECT

Cozad & Fox, Inc. was retained by the Economic Development Agency to provide civil engineering services, surveying services and construction administration services for Hemet Regional Service Center Parking Lot Expansion. We were able to maximize the site in order to address required drainage facilities, while still providing 92 new parking spaces. The project includes field topographic surveying, evaluation of existing drainage patterns, water quality management plan in [Type a quote from the document or the summary of an interesting point. You can position the text box anywhere in the document. Use the Drawing Tools tab to change the formatting of the pull quote text box.]
filtration basin, civil engineering design of improvements, and developing materials and construction cost estimates. During design, Cozad & Fox, Inc. coordinated utility relocation with the utility purveyors. All services were coordinated not only with the Economic Development Agency but also with Riverside County Transportation Department and the City of Hemet. The construction administration services for the Parking Lot Improvement Project included administering the construction contract and orchestrating weekly on-site meetings, provided on-site observation and continuous inspection of work, responded to RFI's, processed change orders, processed shop drawings, reviewed submittals, provided construction surveying, directed the geotechnical testing and inspection, reviewed and authorized invoicing and determine the acceptability of the work. Key aspects of our services include making sure the contractor stays on schedule and is coordinating with the utility consultant, not significantly disrupting traffic and working with the local community to provide access.

Cozad & Fox, Inc. performed construction administration, inspection, construction staking and resolving field changes all while keeping the project on schedule and on budget.
CITY OF INDIOL
BNP 2010-2011 THREE NEIGHBORHOOD PARKS
Cozad & Fox, Inc. provided the design, construction surveying and construction administration services for the improvements of Three Neighborhood Parks including Burr Street Park, Dr Carreon Park and Miles Park along with street improvements on Valencia Street and Palm Street. The project was constructed according to the City’s requirements, within budget and on schedule.

VALLEY-WIDE RECREATION AND PARK DISTRICT
THE WINCHESTER COMMUNITY CENTER AND SPORTS PARK
In conjunction with Valley Wide Park and Recreation District, Eastern Municipal Water District and Riverside County Fire Department, Cozad & Fox, Inc. surveyed, designed and provided construction support services. The project included extending local county road access, water and reclaimed water, utilities and electrical services to the 20-acre park site. The new park included ample on-site parking, baseball fields, soccer fields, playground and 10,000 s.f. community center with meeting hall, basketball court, concessions, and meeting rooms. The sports park was constructed on budget and on schedule and provides a much needed facility for the community of Winchester.
VALLEY-WIDE RECREATION AND PARK DISTRICT
THE VALLE VISTA COMMUNITY CENTER AND SPORTS PARK
Cozad & Fox, Inc. also provided the complete surveying, design and construction support services for the Valle Vista Community Center and Sports Park a 10-acre facility with baseball fields, play areas, on-site parking and 10,000 s.f. community center.
PROJECT TEAM

**Principal in Charge**
Brian Fox, R.C.E., L.S.
27 yrs exp / 20 yrs with this firm

**Project Manager**
Robert Ollerton, L.S.
33 yrs exp / 23 yrs with this firm

**Electrical Engineering**
Victor Leon
*RTM Engineering*

**Landscape Architect**
Chris Hermann, A.S.L.A.
*Hermann Design Group*

**Project Engineer**
Keith Hatton, P.E.
25 yrs exp / 2 months with firm

**Project Engineer**
Robert Pisa, L.S.I.T.
36 yrs exp / 22 yrs with this firm

**Project Engineer**
David Valenzuela, E.I.T.
17 yrs exp / 2 yrs with this firm

**Project Surveyor**
Vinicio Ontiveros, L.S.I.T.
23 yrs exp / 13 yrs with this firm

**Drafter / Designer**
Carlos Munoz
3 yrs exp / 1 yr with this firm

*See Subconsultants Resumes in Appendix A*
RESUMES

BRIAN D. FOX, M.S.C.E. – PRINCIPAL ENGINEER / PROJECT MANAGER

Brian Fox has over 28 years of experience, he joined the firm of Cozad & Fox, Inc. in September of 1990. Mr. Fox has also worked for Metropolitan Water District where he performed GPS surveys at the Eastside Reservoir Project. While with MWD, Mr. Fox also performed construction surveys for pipelines, treatment facilities and pumping plants.

Mr. Fox's educational background includes a Bachelor of Science degree in Civil Engineering with Survey Option from California State Polytechnic University, Pomona, where he graduated Cum-Laude. He has also received a Master of Engineering degree from California State Polytechnic University, Pomona. In addition, he has completed extensive civil engineering course work at California State University, Long Beach.

As Project Engineer and Project Manager, Mr. Fox has been the team leader for both public and private sector civil engineering projects. Mr. Fox’s experience includes subdivision map checking, legals and plats, GPS, topographic, and construction surveys; design of grading, drainage, and storm drain facilities; street and highway improvements; water and sewer improvements; storm channels; and hydrology and hydraulic studies. His particular interest in GPS and computers has led to an extreme proficiency with current engineering and drafting methods.

Mr. Fox is a member of Chi-Epsilon, the Civil Engineering Honor Society; Tau Beta Pi; Phi Kappa Phi, the top 5 percent honor society; and Golden Key National Honor Society.

Education
Bachelor of Science
Civil Engineering-
Survey Option
California State Polytechnic University, Pomona, 1995
Masters – Engineering
California State Polytechnic University Pomona, 2001

Registrations
Professional Land Surveyor
No. 7171, California
Registered Civil Engineer
No. 57264, California
QSD/QSP 2011-2013
Certificate No. 00967

Affiliations
California Land Surveyors Association
Chi Epsilon
Tau Beta Pi
Phi Kappa Phi
Golden Key National Honor Society

Publications
A.C.S.M. Mobile Device for the Remote Mapping of Electric Fields
ROBERT OLLERTON, P.L.S. – PRINCIPAL SURVEYOR / PROJECT MANAGER


He has over 33 years of experience in the civil engineering and land surveying industries. As a Project Engineer Mr. Ollerton has performed engineering design for public works projects including grading, sewer and water, and storm drainage. He has implemented and supervised the use of Civil3D, and MicroStation based civil engineering and land surveying software; produced maps, studies and reports using ArcGIS; and is an expert in the use of static and RTK GPS. As a Project Manager Mr. Ollerton has lead the design team in preparation of water and sewer improvements in Riverside and San Bernardino Counties. Robert's experience includes hydrology, hydraulics for water system design, hydraulics for sewer design, and design of water, sewer and recycled water facilities.

As a consulting surveyor, Robert has worked as the contract city surveyor for the cities of Palm Springs, Beaumont, Hemet, Lake Elsinore, Colton and Chino. As Principal Surveyor with Cozad & Fox, Inc., his responsibilities include providing map checking services to the County of Riverside, preparation and processing of tract maps, parcel maps and records of surveys, ALTA surveys, and fieldwork performed by the firm's survey crews.

He also has field experience working on boundary, construction, topographic and control surveys. His office experience includes analyzing and determining boundary line locations, interpretation of deeds, analysis of easements and mapping, performing research at various cities and counties for surveying projects.

Cozad & Fox, Inc. • 151 South Girard St., Hemet 92544 • 951.652.4454
KEITH HATTON, P.E. – PROJECT ENGINEER

Keith Hatton is a Professional Engineer and has over 25 years of experience and recently joined the team of Cozad & Fox, Inc. this year. Mr. Hatton has prepared water and sewer plans for municipal pipelines including preparation and design of transmission and distribution water mains for major portions of Summerlin, Nevada, in conjunction with Las Vegas Valley Water District. Keith has also developed water pressure zone maps for the City of Henderson, Nevada. In connection with these projects Keith utilizes AutoDesk Civil 3D, MicroStation, and HydrauliCad. Keith utilized his wide range of civil engineering experience and has been instrumental on projects during his 19 years of professional employment in the Las Vegas area.

Mr. Hatton’s experience includes transportation, site planning, public works, federal projects, master planned communities, commercial developments, and program management. He has been the project principal for several of the most prestigious and challenging projects in the Las Vegas and Henderson, Nevada area. He is familiar with the technical aspects and coordination necessary to develop site plans in conjunction with architects, planners and landscape architects. Mr. Hatton has managed the design of infrastructure for major roads, storm drains, water systems, and flood control systems. He has implemented best management practices that improve urban discharges on sustainable projects seeking LEED status.

Some high profile noteworthy projects Mr. Hatton has been instrumental in are: High Speed Spiral Exits at Phoenix Sky Harbor Airport, Otay Mesa Land Port of Entry, Galleria Drive Roadway Improvements Phase II, City of Henderson, Nevada and Mira Villa (Summerlin), Westmark Homes, Las Vegas Nevada.
ROBERT PISA, L.S.I.T. – PROJECT ENGINEER

Robert Pisa has over 36 years of experience; he joined the firm of Cozad & Fox, Inc. in 1995 after two years with J. N. Beeler and Associates of Riverside. His initial training in the engineering field began in 1980 while enlisted in the United States Air Force and included being selected to attend the military’s Advanced Engineering Design School. After leaving the Air Force, Mr. Pisa worked on the Space Shuttle Program for Lockheed Space Operations Company at Vandenberg Air Force Base as a Designer for Facilities Support. In 1986, Mr. Pisa went to work for M. K. Welch Surveys of Santa Maria, California, developing his experience with state-of-the-art computerized surveying and engineering practices. Mr. Pisa relocated to the Inland Empire in 1991.

Mr. Pisa has served as Project Engineer for public and private sector civil engineering projects. His experience includes topographic surveys, construction surveys, designing, grading and drainage plans, design of storm drainage facilities, street improvement plans, water and sewer plans, and survey maps required by the Subdivision Map Act.
VINICIO ONTIVEROS, L.S.I.T. – PROJECT SURVEYOR

Mr. Vinicio Ontiveros has over 23 years’ experience, he began his career in civil engineering and land surveying in 1991 and has since performed civil engineering design and land surveying in Riverside, Orange, and Los Angeles counties. In 1993, Mr. Ontiveros returned to University of Mexico to complete his Civil Engineering degree. Mr. Ontiveros received a Bachelor of Science degree in Civil Engineering from University of Mexico in 1995.

Mr. Ontiveros’s experience includes topographic and construction surveying, design of grading and drainage plans, street improvement plans, water and sewer plans, and storm drain plans. Mr. Ontiveros is well versed in AutoCAD and MicroStation, and has developed expertise in Civil Engineering software such as Land Development Desktop and Eagle Point.

Education
Bachelor of Science
Civil Engineering
University of Mexico

Registrations
Registered Civil Engineer,
Mexico
Land Surveyor-In-Training
No. 6344, California
DAVID VALENZUELA, E.I.T. – PROJECT ENGINEER

David Valenzuela has over 17 years’ experience in the construction industry. He has experience in the water and wastewater industry, in addition to vertical construction, pipelines and street construction. He has worked as representative for contractor as well as provided various Construction Management Services for the client. David has experience in project administration, schedule review, inspection, and jobsite safety. He has worked as lead inspector for the Elsinore Valley Municipal Water District’s $28M Capital Improvement Program as well as provided on-call services for Elsinore Valley Municipal Water District, and West Basin Municipal Water District. Projects include one mile of 18” Ductile Iron Pipe (DIP) and half mile 24” DIP for 1467 Zone Pipeline Phases 3 & 4 (EVMWD) approximate project cost $1.03M, approximately one mile of 12” C900 PVC pipe for the Carson Mall Lateral Phase II (WBMWD) approximate project cost $700k and 4 miles of 12” C900 PVC pipe for the Carson Street Master Plan Implementation Project (WBMWD) approximate project cost $2.7M. His expertise includes review of project submittals, road construction, including grading, paving, water and sewer pipeline construction, jack and bore construction, and masonry construction.
CARLOS MUNOZ – DRAFTER / DESIGNER

Carlos Munoz has over 3 years’ experience of Engineering Drafting/Designer experience and joined the firm at Cozad & Fox, Inc. in 2018. His experience includes various Civil Engineering projects such as street improvement plans, water pipelines, sewer pipelines, grading/drainage plans and design of storm drainage facilities. Mr. Munoz is highly proficient in utilizing design software such as Civil 3D and MicroStation. He also has experience preparing “As-Built” plans for municipal agencies. His GIS experience includes creating spatial tabular datasets in ArcGIS and preparing maps for municipal agencies.

Carlos has also completed numerous Engineering and Land Surveying courses at Mt. San Jacinto College and is planning to transfer to Cal Poly Pomona.
# FEE SCHEDULE FOR CITY OF BANNING DESIGN OF BUILDING DEMOLITION AND PARKING LOT IMPROVEMENTS IFB NO. 19-020

1. **PROJECT ADMINISTRATION**
   - Estimate ................................................................. $1,812.00

2. **TOPOGRAPHIC AND BOUNDARY SURVEY**
   - Estimate ................................................................. $3,866.00

3. **PARCEL MERGER**
   - Estimate ................................................................. $3,776.00

4. **WATER QUALITY MANAGEMENT PLAN (WQMP)**
   - Estimate ................................................................. $5,472.00

5. **GRADING PLAN**
   - Estimate ................................................................. $4,792.00

6. **CONSTRUCTION SURVEYING SERVICES**
   - Estimate ................................................................. $4,920.00

7. **GEOTECHNICAL REPORT**
   - Estimate (Lump Sum $4,100.00 + 8%) ........................................ $4,428.00

8. **UTILITY RESEARCH**
   - Estimate ................................................................. $1,418.00

9. **STRUCTURAL DEMOLITION PLAN**
   - Estimate ................................................................. $2,810.00

10. **FINAL PLANS, SPECIFICATIONS AND ESTIMATES**
    - Estimate ................................................................. $3,928.00
11. **BID PHASE ASSISTANCE**
   
   Estimate .......................................................... $1,778.00

12. **CONSTRUCTION PHASE ASSISTANCE**
   
   Estimate .......................................................... $1,422.00

13. **“AS-BUILT” PLANS**
   
   Estimate .......................................................... $1,016.00

14. **PARKING LOT LIGHTING PLAN**
   
   Estimate (Lump Sum + 3,700.00 + 8%) ................................ $3,996.00

   **TOTAL ESTIMATE WITHOUT OPTIONAL TASK** ................................ $45,434.00

---

**OPTIONAL TASK**

15. **LANDSCAPING PLANS**
   
   Estimate (Lump Sum $10,350.00 + 8%) .......................... $11,178.00

16. **LANDSCAPING PLANS**
   
   Estimate (Lump Sum $3,100.00 + 8%) .......................... $3,348.00

   **TOTAL ESTIMATE WITH OPTIONAL TASK** ........................... $59,960.00
**PRICING PROPOSAL FORM**

Provide hourly rates, along with pricing in accordance with the City’s current requirements, as set forth in the Scope of Work. [Also provide your firm’s proposed Staffing Plan (subtasks, employee classification, hourly rate, hours assigned and total cost) on a separate sheet of paper.] Bidder should use a separate form to state pricing for any added value.

<table>
<thead>
<tr>
<th>Task</th>
<th>Total Cost</th>
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</thead>
<tbody>
<tr>
<td>1. Project Administration</td>
<td>$1,812.00</td>
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<tr>
<td>2. Topographic and Boundary Survey</td>
<td>$3,866.00</td>
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<td>3. Parcel Merger</td>
<td>$3,776.00</td>
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<tr>
<td>4. Water Quality Management Plan (WQMP)</td>
<td>$5,472.00</td>
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<tr>
<td>5. Grading and Parking Lot Improvement Plan</td>
<td>$4,792.00</td>
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<tr>
<td>6. Construction Surveying Services</td>
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<tr>
<td>7. Geotechnical Report</td>
<td>$4,428.00</td>
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<td>8. Utility Research</td>
<td>$1,418.00</td>
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<td>9. Structural Demolition Plan</td>
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<tr>
<td>10. Final Plans, Specifications and Estimates (PS &amp; E)</td>
<td>$3,928.00</td>
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<td>11. Bid Phase Assistance</td>
<td>$1,778.00</td>
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<tr>
<td>12. Construction Phase Assistance</td>
<td>$1,422.00</td>
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<tr>
<td>13. As-Built Plans</td>
<td>$1,016.00</td>
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<tr>
<td>14. Parking Lot Lighting Plan</td>
<td>$3,996.00</td>
</tr>
<tr>
<td>15. Optional: Landscaping Plan (*See Note Below)</td>
<td>$11,178.00</td>
</tr>
<tr>
<td>16. Optional: Geotechnical Infiltration Testing</td>
<td>$3,348.00</td>
</tr>
</tbody>
</table>

*NOTE: A portion of Landscape Architecture Services fee include Construction Phase Service and General Services to be performed hourly. Construction Phase Service allow $2,000.00, General Services allow $500.00, the actual fee may be lower.

A. Grand Total Bid amount (Tasks 1-14): $45,434.00  **ENTER AMOUNT ELECTRONICALLY UNDER "LINE ITEMS"**

B. Optional Tasks amount (Tasks 15-16): $14,526.00  **ENTER AMOUNT ELECTRONICALLY UNDER "LINE ITEMS"**

Pricing shall remain firm for a minimum of two (2) years. Any and all requests for pricing adjustments for follow-on contract renewal periods shall be provided no later than sixty (60) days prior to the end of the contract period. Any such proposed price adjustments shall not exceed The Bureau of Labor Statistics Consumer Price Index (CPI) data for Los Angeles-Riverside-Orange County, CA, All Items, Not Seasonally Adjusted, "annualized change comparing the original Proposal month and the same month in the subsequent year. (This information may be found on the U.S. Department of Labor's website at www.bls.gov.)

Consultant shall provide a separate rate schedule identifying staff members' hourly rates, reimbursable expenses and/or rates, mileage and/or travel cost, etc.

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<thead>
<tr>
<th>Professional Classification</th>
<th>Hourly Rate</th>
<th>Hours worked</th>
<th>Total Cost</th>
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<tbody>
<tr>
<td>Principal Engineer / Surveyor</td>
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<td>$6,408.00</td>
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<td>Senior Project Engineer/Surveyor</td>
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<td>TASK</td>
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<td>Proj. Eng/Land Surveyor $127/hr</td>
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<td>1. Project Administration</td>
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<td>2. Topographic and Boundary Survey</td>
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<td>3. Parcel Merger</td>
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<td>4. Water Quality Management Plan (WQMP)</td>
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<td>5. Grading Plan</td>
<td>6</td>
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<tr>
<td>6. Construction Surveying Services</td>
<td>2</td>
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<tr>
<td>7. Geotechnical Report (Lump Sum $4,100.00 + 8%)</td>
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<td>8. Utility Research</td>
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<td>10. Final Plans, Specifications and Estimates</td>
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<td>11. Bid Phase Assistance</td>
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<tr>
<td>12. Construction Phase Assistance</td>
<td>3</td>
<td>6</td>
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<tr>
<td>13. &quot;As-Built&quot; Plans</td>
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<td>8</td>
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<tr>
<td>14. Parking Lot Lighting Plan</td>
<td>(Lump Sum $3,700.00 + 8%)</td>
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<tr>
<td>TOTAL ESTIMATE (Without Optional Task)</td>
<td>36</td>
<td>65</td>
<td>98</td>
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**OPTIONAL TASKS**

15. Landscaping Plans (*See Note Below*) (Lump Sum $10,350.00 + 8%) | $11,178 |
16. Geotechnical Infiltration Testing (Lump Sum $3,100.00 + 8%) | $3,348 |

**TOTAL ESTIMATE (Without Optional Task)** | 36 | 65 | 98 | 32 | 16 | 247 | $59,960 |

*NOTE: A portion of Landscape Architecture services fee include Construction Phase Services and General Services to be performed hourly. Construction Phase Services allow $2,000.00, General Services allow $500.00, the actual fee may be lower.*
CITY OF BANNING / SCHEDULE OF FEES
Effective Date: March 1, 2017 – April 30, 2019

GENERAL SCOPE OF SERVICES

Cozad & Fox, Inc. provides services in the fields of civil engineering, structural engineering, and land surveying in accordance with presently accepted professional practices. Cozad & Fox, Inc. does not provide services relating to construction safety and shall be held harmless by the contractor from any liability in this regard. In the event that the client requests termination of work prior to its completion, we reserve the right to complete, at the client's expense, such analysis and records as are considered necessary by us to place our files in order and/or to protect our professional reputation.

PERSONNEL CHARGES - RATES PER HOUR

<table>
<thead>
<tr>
<th>Position</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal Civil Engineer/Principal Land Surveyor/Structural Engineer</td>
<td>$178.00</td>
</tr>
<tr>
<td>Senior Project Engineer/Surveyor</td>
<td>$148.00</td>
</tr>
<tr>
<td>Project Engineer/Surveyor</td>
<td>$127.00</td>
</tr>
<tr>
<td>Assistant Project Engineer/Surveyor</td>
<td>$117.00</td>
</tr>
<tr>
<td>Administrative/Project Coordination</td>
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</tr>
<tr>
<td>Typing, printing</td>
<td>$41.00</td>
</tr>
<tr>
<td>Survey - Office Analysis</td>
<td>$148.00</td>
</tr>
<tr>
<td><strong>One Man Survey Crew</strong></td>
<td>$194.00</td>
</tr>
<tr>
<td>Two Man Survey Crew</td>
<td>$255.00</td>
</tr>
<tr>
<td>Extra Survey Crew Support (Traffic control, etc.)</td>
<td>Estimated by project</td>
</tr>
</tbody>
</table>

* With today's advanced technology, most of our surveys are completed by a one-man survey crew.

OTHER CHARGES

Expert Witness - Deposition and/or Court appearance......................... Two times hourly rate
Expert Witness - Research, Case Review and/or Preparation.................. Normal hourly rate
Mileage to and from meetings or project site.................................... $0.54/mile
Reimbursable Expenses and Sub Consultants ...........................................Lump Sum
January 11, 2019

Attention: Brian Fox, P.E.
COZAD & FOX, INC.
151 South Girard Street
Hemet, California 92544

Re: Proposal for Geotechnical Investigation and Optional Infiltration Testing
   Proposed Parking Lot
   128 N. San Gorgonio Avenue, Banning, California
   APN’s 541-141-013 and 541-141-005

Dear Mr. Fox:

We are pleased to submit our proposal for performing a geotechnical investigation for the
proposed parking lot improvements at the referenced site. We have also included estimated
fees for storm water infiltration testing as an optional service item.

![USGS Topographic Map, Cabazon 7.5' Quadrangle, and Aerial Photograph (2016)]

Project Understanding and Proposed Scope of Service

We understand that the property (APN’s 541-141-013 and 541-141-005) will be improved as a
parking lot. An existing two-story residence located on the southerly portion of the ±0.40 acre
site will be demolished as part of the project. The proposed parking lot improvements will
include curbs, gutters, sidewalks, pavement, signage and lighting. We anticipate that light poles
are planned for the parking lot will likely be supported by drilled cast-in-place pier foundations.
We assume that the light pole footings will not exceed 6 feet deep.
In addition, we understand that a stormwater infiltration system, possibly consisting of an infiltration basin may be designed and constructed on the site. At this time, no site plans or details for the proposed parking lot improvements or infiltration system are available.

Our scope of service will include performing a subsurface geotechnical investigation for proposed parking lot improvements at the referenced site. Specific recommendations for the proposed parking lot improvements will be developed for pavement design, geotechnical parameters for the light pole footings and general site grading. We have also included estimated fees for storm water infiltration testing as an optional service item. The following sections discuss anticipated subsurface conditions at the site, and our approach to this project.

Anticipated Subsurface Conditions

According to the CGS Preliminary Geologic Map of Quaternary Surficial Deposits, Palm Springs 30' x 60' Quadrangle (Lancaster, et al., 2012), the site is underlain by young alluvial fan deposits (map symbol Qyf). These are described as gray, unconsolidated to slightly consolidated alluvium consisting of boulder, cobble, gravel, sand and silt deposits. Following is a portion of the referenced geologic map.
Our preliminary review of Google Earth® imagery indicates that at least once structure once occupied the area of the proposed parking lot improvements. Following are recent (2018) and historical (1996) aerial photographs showing the previous structure(s) on the site.
Preliminary Geotechnical Investigation

Based on discussions with Cozad & Fox, Inc., we understand that the demolition of the existing structure on the site will be completed prior to the geotechnical field exploration. On this basis, a backhoe will be used for the subsurface exploration. This will allow for more accessibility to evaluate the entire site. Following is a discussion of our project approach.

FIELD EXPLORATION - For our field exploration, we propose to excavate 3-4 exploratory trenches within the proposed parking lot. The depths and locations of the trenches will be determined in the field on the basis of subsurface conditions encountered. A search will be made for debris, remnants, and artificial fill associated with the former structures on the site.

A staff geologist will log the materials encountered during the field investigation. Density testing using a nuclear density gauge will be performed at selected intervals within exploratory trenches. Relatively undisturbed samples will also be obtained with a drive sampler at selected locations. Representative bulk soil samples will also be obtained in the field and transported to our laboratory. Underground Service Alert will be contacted to locate buried underground utilities prior to the field exploration. The exploratory trenches will be backfilled in an uncompacted manner.

LABORATORY TESTING - Representative bulk soil samples will be tested in order to determine the corresponding maximum dry densities-optimum moisture contents, general engineering classifications, and other pertinent engineering characteristics. Samples will be selected for R-Value and direct shear testing. This testing will provide data useful in estimating the load-settlement and strength characteristics of the soil and for pavement structural section design. Samples will also be selected for corrosivity testing including pH, sulfates, resistivity, and chlorides.

ENGINEERING ANALYSIS AND REPORT PREPARATION - On the basis of our field and laboratory investigation, we will develop conclusions and engineering recommendations which may be applied to the design of the proposed parking lot improvements. Specific recommendations will be developed for:

- Pavement Design
- General Site Grading

For the light pole foundations, recommendations will be presented for:

- Pier Footing Design Parameters
- Excavation characteristics of the soil
- Soil Corrosivity
- Design Lateral Earth Pressures
- Coefficient of Friction
- Caving Potential
The conclusions and recommendations will be presented in a formal report, which will also include field and laboratory test data. Field data will be presented in gINT® format. These logs will provide a written description of the subsurface materials and a graphic or symbolic presentation.

**Infiltration Testing (Optional Service)**

At this time, no plans are available indicating the proposed location and/or depth of the infiltration facility. The infiltration testing will be conducted for the purpose of providing test data to designers for stormwater disposal.

If infiltration testing is required to assess the infiltration characteristics of the near surface soils for landscape design, we are able to conduct infiltration testing per the Riverside County – Low Impact Development BMP Design Handbook (2011). The testing will be performed using the Riverside County Department of Environmental Health shallow percolation test procedure. As outlined in the BMP Design Handbook, the percolation rates will be converted to infiltration rates using the Porch Method.

Typically, a minimum of four percolation tests and one deeper exploratory boring/trench in the vicinity of the proposed infiltration facility are required per the BPM Handbook. The location of the proposed infiltration facility should be provided to us prior to the infiltration testing.

For the purpose of this proposal, we are assuming that one infiltration basin will be planned for the site, and will not exceed five feet in depth. If the final design indicates multiple infiltration locations or if the basin depth exceeds five feet below the existing ground surface, we will need to revise our proposal.

Based on the testing, rates will be provided with units of inches per hour. Factors of Safety outlined in the Low Impact Development BMP Design Handbook should be applied to the infiltration rates provided.

**Fee Estimate**

**Preliminary Geotechnical Investigation** - Our fee for conducting the Preliminary Geotechnical Investigation as described in this proposal will be $4,100.00. This will include the field exploration, laboratory testing, engineering analysis and the geotechnical report.

**Infiltration Testing (Optional Service)** - If required, our estimated fee for conducting the infiltration testing as described in this proposal will be $3,100.00. This will include the backhoe equipment, field exploration and testing, and the infiltration report. This fee is based on the infiltration testing being conducted concurrently with the geotechnical exploration to avoid additional equipment mobilization costs.

Upon acceptance of this proposal, an Agreement for Professional Services will be submitted to your office requesting your signatory approval.
Limitations

Our services will be performed in accordance with the standard of practice exercised by other geotechnical engineers practicing in the same geographic area. No warranty, express or implied, is made.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. If you have any questions concerning this proposal, please contact our office.

Respectfully,

INLAND FOUNDATION ENGINEERING, INC.

Daniel R. Lind, P.G., C.E.G.
Principal Geologist

Allen D. Evans, P.E., G.E.
Principal

DRL:ADE:es
About Inland Foundation Engineering, Inc.

Inland Foundation Engineering, Inc. (IFE), a California Corporation, has been a recognized leader in developing solutions for demanding geotechnical engineering and materials testing projects for over 38 years. We have provided comprehensive geological and geotechnical engineering services, materials testing and special inspection throughout southern California for over 17,500 individual public and private projects since we were founded in 1978.

IFE is a California corporation and a certified Small Business Enterprise (SBE). With 20 employees, we provide services throughout Riverside County and the rest of southern California from two offices; our headquarters office in San Jacinto and our Palm Desert office. These locations are in a great position for us to promptly respond to short notice requests for services throughout Riverside County.

Several municipalities within the Counties of Riverside and San Bernardino are continuing clients of IFE. During the past 12 months, we have provided materials testing and geotechnical engineering services to the Cities of Rancho Mirage, Hemet, San Jacinto, Lake Elsinore and Canyon Lake. We have current on-call agreements with the Eastern Municipal Water District, Riverside County Flood Control and Water Conservation District, Riverside County Transportation Department and the San Bernardino County Transportation Department. In addition, we provide on-call services to the County of Riverside Economic Development Agency, the Hemet Unified School District, the Nvview Union School District and the Lake Hemet Municipal Water District.
ALLEN D. EVANS, PE
Principal Geotechnical Engineer

As President and Principal Geotechnical Engineer of Inland Foundation Engineering, Inc., Mr. Evans' responsibilities include overall management of our headquarters in San Jacinto and our satellite office in Palm Desert, California. Mr. Evans also serves as project manager for foundation investigations, preliminary soil investigations, environmental assessments and remedial investigations, slope stability studies, percolation investigations and other projects associated with geotechnical, environmental and construction engineering.

Mr. Evans has over 30 years of experience in the geotechnical engineering and materials testing field, nearly all of which have been spent in the greater Riverside - San Bernardino county area. His project construction experience includes schools, prisons, detention facilities and hospitals. Mr. Evans has extensive experience with the management of testing inspection programs for large infrastructure and institutional projects.

Recent Project Experience:

- City of Hemet, Echo Hills Waterline Replacement Project
- City of Hemet, Police Department Building Addition, Hemet
- City of Hemet, Safe Route to Schools Project, Hemet
- City of San Jacinto, Ramona Expressway Widening Project, San Jacinto
- City of San Jacinto, Sanderson Avenue Widening Project, San Jacinto
- Hemet Regional Service Center Parking Lot Improvement, Hemet
- Hemet Unified School District, Acacia Middle School Modernization, Hemet
- Hemet Unified School District, Hemet Elementary School Reconstruction, Hemet
- Hemet Valley Baptist, New Sanctuary, Hemet
- Hemet Valley Medical Center, New CT Scan Room, Hemet
- Hemet Valley Medical Center, Emergency Room Remodel, Hemet
- Lake Hemet Municipal Water District, Acacia & Girard Avenues, Waterline Replacement Project
- Lake Hemet Municipal Water District, Upper and Lower Skycrest Waterline Replacement Project
- San Jacinto MDP Line E2 and E2A, San Jacinto and Hemet

Education:
- B.S. AGRICULTURAL ENGINEERING, UNIVERSITY OF IDAHO, MOSCOW, IDAHO
- M.S. CIVIL ENGINEERING, UNIVERSITY OF SOUTHERN CALIFORNIA, LOS ANGELES, CALIFORNIA

Professional Registrations:
- CALIFORNIA GEOTECHNICAL ENGINEER, NO. 2060
- CALIFORNIA CIVIL ENGINEER, NO. 38104

Associations:
- AMERICAN SOCIETY OF CIVIL ENGINEERS
- CALIFORNIA GEOTECHNICAL ENGINEERS ASSOCIATION
- AMERICAN COUNCIL OF ENGINEERING COMPANIES
January 14, 2019

Michele M. Fox
Cozad & Fox, Inc.
151 South Girard Street
Hemet, CA 92544

Proposal

RE: Agreement for Engineering Services
   City of Banning
   Parking Lot Improvements
   Banning, CA

Dear Michele,

We are pleased to provide you with this proposal for engineering services. We understand the basic scope of work is to include electrical engineering for the parking lot improvements at 128 N. San Gorgonio Avenue in Banning, CA.

Founded in 1981, RTM Engineering Consultants, LLC, is a 180-person engineering consulting firm that is well equipped and highly qualified to serve as engineers, designers, project managers, and expert consultants for your design and planning needs. RTM has assembled a team of talented and experienced professionals ready and able to bring creativity, enthusiasm, and accountability to the project.

We are pleased to present our qualifications and welcome the opportunity to provide exceptional engineering services to achieve project goals. We believe that our expertise in engineering design combined with our proactive team-oriented approach will surpass your expectations and result in a successful project delivery.

Best regards,

[Signature]

Victor Leon
RTM Engineering Consultants, LLC
Section 1 - Scope of Work

1. GENERAL

We intend to provide the following engineering services for the proposed scope of work:

➢ Provide a set of electrical plans and specifications for the lighting additions to the parking lot
➢ Perform an initial site visit as required to review the existing electrical system
➢ Provide electrical engineering plans for the electrical system
➢ Prepare design and plans for building department submittal and construction issuance
➢ Prepare electrical specifications on the drawings as part of the electrical set

1.1 SCOPE OF CONSTRUCTION DOCUMENTS

Construction documents will include drawings and specifications of:

➢ Electrical drawings including:
  o Electrical site plan
  o Distribution and branch panel locations
  o Single line diagram
  o Panel schedules and load calculations
  o Photometrics plan
  o Title 24 – Exterior Lighting

1.2 CONSTRUCTION ADMINISTRATION

The following services are inclusive in the construction administration process:

➢ Review of equipment submittals
➢ Review of shop drawings
➢ Review and response to RFI’s

1.3 EXCLUSIONS

The following services are not included in the scope of work:

➢ Creation of as-built drawings
➢ Development of cost estimates
➢ Value engineering after issuance of construction documents
➢ Modifications to construction drawings to accommodate field changes

*Services that are excluded can be provided for an additional fee at the request of the client.

Section II - Compensation

2. COMPENSATION
For the work outlined above in this proposal, our engineering fees are as follows:

**Construction Documents**  
(Base Fee)  
$3,300.00

**Construction Administration**  
(Base Fee)  
$400.00

**TOTAL BASE FEES:**  
$3,700.00

Minor variations are expected to occur in the Scope of the Project that should not alter the above estimate. In the event that the physical scope of the project, time of completion, or the services required are materially changed or the projections of the program are radically modified, thereafter; appropriate adjustments will be made to the fixed fee to compensate for any reduction or addition to the basic services. Adjustments to the lump sum fee will be made at the rate shown in the ‘Hourly Rate Schedule’ of this proposal.

### 2.1 HOUYRAL RATE SCHEDULE

Time and material expenses shall be billed at the rates shown below.

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>HOURLY RATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$265.00/Hr.</td>
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<tr>
<td>Associate</td>
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<td>Senior Design Engineer</td>
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<tr>
<td>Design Engineer</td>
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<td>CAD Technician</td>
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</tr>
<tr>
<td>Clerical</td>
<td>$70.00/Hr.</td>
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</tbody>
</table>

### 2.2 PROJECT RELATED EXPENSES

1. All expenses will be billed at cost with 0% mark-up

### 2.3 SCHEDULE OF PAYMENTS

For the basic services described in this proposal, we request that the following terms of payments:

1. Payment of invoices to RTM Engineering Consultants, LLC, shall be within a maximum of thirty (30) days net after issue of invoices.
2. We will submit monthly invoices for the services rendered.
3. Any additional service not covered in this Proposal will be billed at the rates shown in ‘Hourly Rate Schedule.’

**Section III – General Provisions**

1. **GENERAL PROVISIONS**
Our ability to carry out the required work is heavily dependent upon our past experience. We will preserve the confidential nature of any information received from you, or developed during the work in accordance with our established professional standards.

Neither party will use the name of the other for advertising or promotional purposes without prior permission in writing.

Technical data, documents, drawings, specifications or memoranda resulting from this assignment, are not to be reproduced in whole or in part for use outside our organization without prior written approval.

Any statement of probable construction costs, prepared as a part of our services, represents our best judgment based on familiarity with the construction industry. It is recognized, however, that we have no control over the cost of labor, materials or equipment, or the contractor’s methods of determining bid prices and cost of services. Accordingly, we do not warrant that estimates or prices may not vary from the project budget prepared by us.

We will devote our best efforts to carrying out the work required. The results obtained from our recommendations and documents will be in our judgment based upon the information available to us. In any event, our liability shall not be greater than the amount paid to us for the services rendered.

ACCEPTED BY:

By: ______________________
Printed Name: ________________
Company: ____________________
Date: ______________________

SUBMITTED BY:

[Signature]
Victor Leon
RTM Engineering Consultants, LLC
RTM Engineering Consultants, LLC Standard Terms and Conditions

These Standard Terms and Conditions are incorporated by reference into and made a part of the proposal and agreements between the parties upon the occurrence of a conflict between these Standard Terms and Conditions and any proposal or agreement between the parties and Client, these Standard Terms and Conditions shall govern.

1. Parties. "Client" shall be the party identified as such in the proposal or agreement, or, if none is defined, shall be the party to whom the proposal or agreement is addressed. "RTM" shall mean RTM Engineering Consultants, LLC.

2. Client and Project Information. Client shall provide accurate information regarding the Project, as applicable and as are available, including surveys, as-built drawings, all known site conditions, restrictions, permit requirements, easements and legal requirements applicable to the property, a program, setting forth objectives, schedule, constraints, a budget with reasonable contingency, a realistic time frame of work by RTM. RTM shall be entitled to rely on the accuracy and completeness of all information and services provided by Client.

3. Scope of Services. RTM's scope of services shall include only those services identified in the proposal or agreement. The duties, responsibilities and limitations of authority of RTM shall not be restricted, modified or extended without the prior written consent of both Client and RTM. Neither Client nor RTM shall make changes to the other's instruments of service.

4. Additional Services. Services requested, authorized or confirmed by writing, signed or initialed, and not described above, including any services not otherwise expressly included in the proposal or agreement, or not customarily furnished as basic services in a generally accepted consulting engineer practice, shall constitute additional services compensable as mutually agreed or as provided herein for "Additional Services." If no agreement is reached in advance, time spent by RTM providing Additional Services shall be billed at the rates set forth in the Hourly Fee Schedule.

5. Schedule, Budget and Standard of Care. RTM shall perform its services as expeditiously as is consistent with reasonable skill and care. RTM agrees to perform its services in a manner that is consistent with the degree of care and skill ordinarily exercised by members of the same profession under similar circumstances. In providing services under this agreement, however, RTM makes no express or implied warranties or guarantees. RTM's opinions or evaluations of the Project's budget and estimate of construction cost prepared by RTM represent RTM's reasonable judgment as a design professional familiar with the industry. Client understands neither Client nor RTM can control the costs of labor, materials or prices under market conditions existing at the time of bidding or construction. RTM's estimate of the amount of work is based on the actual conditions as of the date of agreement.

6. Construction Administration. If RTM's services include construction administration of the work in progress, RTM's responsibilities during construction administration may consist of the following duties only as specifically included in RTM's scope of services:

   a. Act as a representative, but not an agent, of Client at the site of the Project, with authority only as provided herein. RTM shall: (i) have the authority but not the duty to reject work that does not comply with RTM's Contract Documents; (ii) have the authority but not the duty to reject additional inspections or testing of the work whenever, in RTM's reasonable opinion, such additional inspections or testing are reasonable for the protection of the Project (including, but not limited to, the requirements of RTM's Contract Documents; (iii) have the authority to review and comment or take other appropriate action upon the Contractor's submittals as a part of RTM's duties under the Contract Documents; but only for the purpose of checking for compliance with Contract Documents, specifications, and contract documents for dimension, quantity, quality, installation capability, which are the responsibilities of the Contractor (the "Contractor") and other matters approved and the design concept expressed in the Contract Documents, provided however that RTM's review of a specific item shall not indicate approval of an assembly of which the item is a component; and (iv) with prior written approval from Client, prepare and respond to Requests for Information or Construction Change Order Requests, with the right of such approval to be exercised by the Engineer in his/her discretion.

   b. Advise and consult with Client during construction on the Project in a manner consistent with the duties of an "Independent Contractor." RTM is, as an Additional Service, during any period thereafter in which changes are to be made by the Contractor:

   i. Visit the site of the Project to observe the Work in order to become generally familiar with the progress and quality of the Work included in RTM's Contract Documents and completed to date and to determine whether, in general, the Work includes or includes the improvements being performed by the Contractor in a manner consistent with the requirements of RTM's Contract Documents: (i) at intervals which are appropriate, in RTM's reasonable discretion, to the stage of construction; or (ii) as otherwise agreed to by Client and RTM in writing, provided however, that in no event shall RTM be required to make exhaustive or continuous on-site inspections in order to check the quality or quantity of the Work, nor shall RTM be responsible for or review any of Contractor's means, methods, techniques, sequence, or procedures, or for safety precautions in connection with the Work, since such duties are the responsibility of the Contractor. Based upon said observatory, RTM shall keep Client reasonably informed of the progress and quality of the Work to the extent reasonable under the circumstances and in the exercises of the standard of care provided herein:

   d. If included in RTM's scope of services, review and clarify amounts due to the Contractor based on RTM's observations at the site of the Project, as evidenced by the Contractor's applications for payment. RTM's certification for payment constitutes a representation by RTM that the Work represented therein, (a) is in accordance with the directions and drawings submitted for the Work, (b) is in accordance with the requirements of the Contract Documents, (c) is in accordance with the plans, specifications and directions for the Work contained in the Contract Documents, (d) is in accordance with the instructions of the Engineer in charge of construction, (e) is in accordance with the requirements of the Contract Documents, and (f) is in accordance with the instructions of the Engineer in charge of construction.

   e. Conduct observations to determine conformity with the dates of Substantial Completion and Final Completion and to issue the certificate of Payment.

   f. Upon written request of Client, or the Contractor, and when the work is substantially completed in full or in part, or in other circumstances as required by the needs of the Project, RTM's response to such requests shall be reasonable and prompt. When making such interpretations and decisions, RTM shall not be liable for results of interpretations or decisions rendered unless such failures are in accordance with the standard of care.

   g. Payment. Client agrees to pay RTM within 30 days of receipt of RTM's invoice and any supporting documentation reasonably requested by Client. Invoices unpaid after 30 days shall accrue interest at the rate of one percent per month. Should Client fail to pay any amounts due hereunder or for any other services under any other agreements between Client and RTM, and such non-payment exceeds 45 days, RTM may, without prejudice to any other rights and remedies, suspend services on all agreements between Client and RTM until all amounts due are paid in full. In addition, at RTM's option, Client may be required to provide reasonable evidence of financial ability to continue the obligations under this Agreement. In the event of such suspension of services by RTM, should Client continue to fail to pay all amounts due in full by the close of business on the twenty-fifth (25th) day after receipt of such notice by RTM, then RTM may, without prejudice to any other rights and remedies, terminate the agreement or agreements between Client and RTM and recover damages. In the event of any suspension of services or termination by RTM for Client's failure to timely pay RTM, or in the event of the termination of the terms of the agreement between Client and RTM, RTM shall have no liability for delays in the progress of the Work and RTM shall be entitled to recover attorney's fees, costs of termination or liquidation, and reasonable and responsible attorney's fees, costs and expenses. If Client is another design professional to which RTM provides construction administration services, the procedures set forth in this Section 7 shall be extended by 15 days.

8. Dispute Resolution. Any proposals or agreements between Client and RTM shall be governed by the laws of the state in which the Project is located, and shall be subject to the applicable laws and rules of the state of Illinois, in the absence of any law requiring otherwise. If this Agreement, the performance of obligations hereunder or the written consent of the other.

9. Construction Administration. This Agreement represents and includes the integrated agreement between Client and RTM and supersedes all prior negotiations, representations, or agreements.

10. Limitation of Liability. The parties hereby waive, as against each other, any claims for incidental, special, exemplary or consequential damages. In the event that Client acknowledges and acknowledges the design and construction process for this Project poses certain risks to both RTM and Client. Further, Client fully understands and acknowledges that RTM will not be liable for any losses or costs that might result from the services offered in this Agreement. RTM's liability shall be limited to Client for any and all injuries, claims, liabilities, losses, costs, expenses, or damages whatsoever arising out of or in any way related to the Project, the proposal or Agreement from any cause or causes including, but not limited to, Client's negligence, errors, omissions, breach of contract or any other legal theory, shall not exceed the greater of (i) total compensation received by RTM under this Agreement or (ii) proceeds from insurance coverage.

11. Co-Counsel and Covenants. RTM shall be considered the principal drafters, specifications and other documents prepared by RTM for the Project ("Instrumental Service") and RTM shall at all times hold the copyright therein. Upon payment to RTM for all services rendered under the terms of this Agreement, RTM grants to Client a non-exclusive license to use the instruments of Service in connection with the design, construction, use, maintenance and occupancy of the Project. If this Agreement is cancelled for any reason prior to completion of the Project, Client may use the Instrumental Service in connection with the Project or in part in connection with the completion of the Project, so long as the Instrumental Service has been compensated for in accordance with the terms of this Agreement. As of the date of termination and Client does not use the instruments of Service for any other project without obtaining RTM's consent to such use. RTM shall not be responsible for any changes to the instruments of Service made by anyone other than RTM or for any failure of such services or other submissions to comply with the instruments of Service if such change or submission has not been approved by RTM.

12. Insurance. RTM shall maintain customary insurance with limits and exclusions as reasonably determined by RTM.

13. Legal Fees. In the event of a dispute, the non-prevailing party shall be responsible for the legal fees and costs incurred by the prevailing party.

14. Successors and Assigns. Neither party shall assign this Agreement or any right or cause of action arising out of this Agreement or the performance of obligations hereunder without the written consent of the other.

15. Entire Agreement. This Agreement supersedes all prior negotiations, representations, or agreements.

16. Construction Administration. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, any third party.
Who We Are

We are a 170+ person engineering firm that goes beyond a typical consulting role. We become a partner to our clients by aligning with the goals, processes, and people at your organization.

RTM Culture

Our people really are our most important asset. While you can't put a price on the composure, savvy, and responsiveness of our leadership, we feel it all starts with our vibrant and ambitious staff. We pride ourselves on creating an environment that shares knowledge, whether that's client facing or within our walls. We cultivate talent from top universities and foster growth with hands-on experience and mentorship.

What We Do

We provide engineering and related services to architects, developers, and owners to produce sustainability, construction quality, and streamlined schedules.

Our extensive capabilities allow us to deliver superior work on industrial, commercial, and retail projects as well as other complex building types such as healthcare and laboratory facilities.

Our partnerships ultimately improve each client's business beyond a single-project scope.

Why We Do It Better

RTM's Signature Method

- Responsive in Communication
- Proactive in Consultation
- Quality in Every Discipline
- On Schedule & On Budget
- The Right Design

Awards & Recognition

- Zweig Group's Best Firms to Work For, 2014 - 2018
- Zweig Group's Hot Firm, 2015 - 2018
- Consulting-Specifying Engineer's MEP Giants, 2015 - 2018
- Inc. 5000 Fastest Growing Companies, 2013 - 2017
- ENR Regional Top Design Firms, 2016
- Crain's Best Places to Work In Chicago, 2018

Our Office Locations

Schaumburg, IL • Chicago, IL • Davenport, IA
Milwaukee, WI • Dallas, TX • Orlando, FL • Tampa, FL
Springfield, MO • Overland Park, KS • Palm Desert, CA

Local Office
34300 Gateway Drive, Suite 120
Palm Desert, CA 92211
T. 760.340.9005

Our Services

- Mechanical
- Electrical
- Plumbing
- Fire Protection
- Civil
- Technology
- Construction Administration
- Sustainability
- Commissioning
- High Performance Design

Market Sectors & Reach

- Education
- Civic & Government
- Restaurant
- Retail
- Transportation
- Multi-Family Residential
- Senior Living
- Commercial
- Healthcare
- Mission Critical
- Industrial
- Hospitality

Licensed in all 50 States
January 4, 2019

Via Email
Mr. Bob Pisa
COZAD & FOX
151 South Girard Street
Hemet, CA 92544

Email: bfox@kbcozad.com

RE: Parking Lot Improvements – City of Banning - IFB 19-020
Landscape Architectural Services

Dear Bob:

It is a pleasure to have an opportunity to work with you on this project in the City of Banning. We have prepared the following proposal for landscape architectural services to assist in approvals through the City.

We can begin work immediately upon receipt of contract signed by an authorized representative. If there are any questions or concerns regarding this proposal, please give me a call at 760-777-9131.

Best regards,

HERMANN DESIGN GROUP, INC.

Chris

E. Chris Hermann, ASLA
CLARB Certified Landscape Architect
Principal
ECH/kmh
Parking Lot Improvements - IFB 19-020 - City of Banning
Landscape Architecture Services

SCOPE OF SERVICES
The project is located at 128 North San Gorgonio Avenue, Banning, California.

I. PRELIMINARY DESIGN SERVICES

Survey/Site Review – Hermann Design Group will review the existing site conditions.

Base Sheets – We will develop base sheets from CAD-file engineer’s plans at an
appropriate scale.

Conceptual Planting Plan – We will prepare a planting plan with a legend that calls out
plant material by Latin and common names. We will review this plan with the appropriate
team members and the Client. After meeting and review of comments by the Client, we
will prepare a final color rendered preliminary plan for presentation.

Opinion of Probable Construction Cost - We will prepare an opinion of probable
construction cost of the preliminary plan for use by the Client.

II. CONSTRUCTION DOCUMENTS

Upon approval preliminary design we will prepare the following working drawings:

Planting Plan and Details - This plan will illustrate the location of all plant material. A
plant legend will describe the Latin and common names, sizes and remarks for each
plant shown on the plan. Details will be provided as required.

Irrigation Plan and Details – This plan will illustrate the location of all irrigation
components. Details will be provided as required. Irrigation water budget calculations
and water agency submittal for approval are included.

Specifications – Written specifications will be provided to define construction methods
and materials applicable to the landscape and irrigation plans.

Agency Approvals – We will provide the Client with all plans, specifications, estimates,
and/or other necessary documents required to obtain approval; the foregoing will be
provided in electronic form for submittal by the Client. HDG will be responsible for
required submittals to the water district. The following plan check submittals are
included:

1st Review – Concept Review and Opinion of Probable Construction Cost
2nd Review – 85%-90% Check Plans and Specifications
3rd Review – 100% Check Plans, Specifications,

We will make revisions as required by the applicable governing agencies and provide
electronic plans for resubmittal/approval.

III. CONSTRUCTION PHASE SERVICES

Bid Solicitation – We will provide bid assistance to include answering questions from
prospective bidders.
Parking Lot Improvements - IFB 19-020 - City of Banning
Landscape Architecture Services

Construction Observation Services – We will provide construction observation services upon request by the County. The following Construction Services are recommended;

1. Pre-Construction Meeting
2. Review Planting Layout Prior to Irrigation Installation (1 Visits)
3. Review Final Installation and Irrigation Coverage
4. Final Punch List
5. As Built Drawings

IV. GENERAL SERVICES

Meetings – All meetings will be billed on an hourly basis in accordance with the Normal Hourly Rate schedule outlined in Attachment -1.
Parking Lot Improvements - IFB 19-020 - City of Banning
Landscape Architecture Services

FEES AND CHARGES

Our fees will be billed on a percentage complete basis based on our Normal Hourly Rates. All
reimbursable expenses will be billed in accordance with Attachment -1.

<table>
<thead>
<tr>
<th>I.</th>
<th>PRELIMINARY DESIGN</th>
<th>$2,950.00</th>
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<td>II.</td>
<td>CONSTRUCTION DOCUMENTS</td>
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<td>III.</td>
<td>CONSTRUCTION PHASE SERVICES</td>
<td>Hourly per Attachment -1 and -2</td>
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<td>Allow $2,000.00</td>
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<td>IV.</td>
<td>GENERAL SERVICES</td>
<td>Hourly per Attachment -1 and -2</td>
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<td></td>
<td></td>
<td>Allow $750.00</td>
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</table>

All provisions of the terms and conditions attached are an integral part of this proposal as if herein
written in full. This agreement represents the entire and integrated agreement between the Client
and the Landscape Architect and supersedes all prior negotiations, representations or agreements,
either written or oral.

This proposal shall be deemed to expire within 45 days of proposal date if not fully executed.

APPROVED:

COZAD & FOX ("Client")

BY: ____________________________ DATE: __________
Printed Name and Title:

HERMANN DESIGN GROUP, INC. ("Landscape Architect")

BY: ____________________________ DATE: __________
E. Chris Hermann, ASLA
CLARB Certified Landscape Architect
President
Parking Lot Improvements - IFB 19-020 - City of Banning
Landscape Architecture Services

ATTACHMENT -1

NORMAL HOURLY RATES

<table>
<thead>
<tr>
<th>Position</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Principal Landscape Architect/Principal Planner</td>
<td>$165.00 per hour</td>
</tr>
<tr>
<td>Project Manager</td>
<td>125.00 per hour</td>
</tr>
<tr>
<td>Irrigation Designer</td>
<td>125.00 per hour</td>
</tr>
<tr>
<td>Landscape Architect</td>
<td>110.00 per hour</td>
</tr>
<tr>
<td>Associate/Senior Designer</td>
<td>100.00 per hour</td>
</tr>
<tr>
<td>Specification Writer</td>
<td>95.00 per hour</td>
</tr>
<tr>
<td>Designer</td>
<td>85.00 per hour</td>
</tr>
<tr>
<td>Professional Staff</td>
<td>65.00 per hour</td>
</tr>
</tbody>
</table>

OUTSIDE CONSULTANTS

Services of outside consultants not listed in this proposal, at our direct cost, plus 15% of the actual cost of their services for coordination.

REIMBURSABLES

Reimbursable items, such as the cost of reprographics, plan check fees, soil samples, and auto travel outside the Coachella Valley will be charged at our cost plus 15%.

OVERTIME REQUESTS

It is the landscape architect's responsibility to schedule the project's completion under normal conditions without the use of the staff on an overtime basis. If the Client adjusts the deadline or requests that work be completed earlier than originally scheduled and thus requires overtime, the fees shall be adjusted to cover the increased costs incurred by the landscape architect. The hourly rates for overtime will be one and one-half (1-1/2) times the hourly rates above.

TIMES AND CONDITIONS OF PAYMENT

We will bill on a monthly basis in proportion to the time spent on the project to date. All billing statements are due upon receipt. Interest will be charged at the rate of 1-1/2% per month on the past due balance ninety days and over. Due to increases in wages/benefits, fees and hourly rates are subject to an annual increase of 6%.
Parking Lot Improvements - IFB 19-020 - City of Banning
Landscape Architecture Services

ATTACHMENT -2
ADDITIONAL SERVICES
Additional services shall be performed only when requested or approved by the Client. Compensation for such services shall be in accordance with our Normal Hourly Rates and Reimbursable items, per Attachment -1. Additional services may include, but are not limited to:

1. Revisions or modifications to documents, drawings, or specifications when such revisions or modifications are inconsistent with approvals or instructions previously given or are required by the enactment or revision of codes or laws by governmental agencies having jurisdiction over the project subsequent to the preparation of such documents, drawings, or specifications.

2. Attending any public hearings or meetings not otherwise covered in the proposal scope of services.

3. Work requested by that is heretofore mentioned.

CLIENT RESPONSIBILITY

1. Site plan with appropriate callouts for street infrastructure and other site elements (CAD).

2. Complete information concerning available services and utilities.

3. The cost of structural, electrical, civil engineering if later required.

4. Water feature construction drawings, including (but not limited to) plumbing and electrical specifications.

The landscape architect will be entitled to rely on the adequacy and accuracy of the information provided by Client or Client's consultants and representatives.

OWNERSHIP OF DOCUMENTS
Herrmann Design Group grants its Client a nonexclusive license to use landscape architectural documents as described in this agreement provided the Client performs in accordance with the terms of this agreement. No other license is implied or granted under this agreement. All instruments of professional service prepared by the landscape architect, including but not limited to: drawings, specifications and all digital files, are the property of the landscape architect. These documents shall not be reused on other projects without the landscape architect's written permission. Herrmann Design Group retains all rights, including copyrights, in its documents.

INDEMNIFICATION
The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Landscape Architect, its officers, directors, employees and subconsultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors or other consultants or anyone for whom Client is legally liable. The Landscape Architect agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Landscape Architect's negligent performance of landscape architecture services under this Agreement and that of its subconsultants or anyone for whom the Landscape Architect is legally liable. Neither the Client nor the Landscape Architect shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.
Parking Lot Improvements - IFB 19-020 - City of Banning

Landscape Architecture Services

CONSEQUENTIAL DAMAGES
Notwithstanding any other provision of this agreement, and to the fullest extent permitted by law, neither the Client nor the Landscape Architect, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages that either party may have incurred from any cause of action including negligence, strict liability, and breach of contract. Both the Client and the Landscape Architect shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

THIRD-PARTY BENEFICIARIES
Nothing contained in this agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or the Landscape Architect. The Landscape Architect’s services under this agreement are being performed solely for the Client’s benefit, and no other party or entity shall have any claim against the Landscape Architect because of this agreement or the performance or non-performance of services hereunder. The Client and the Landscape Architect agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this project to carry out the intent of this provision.

LIMITATION OF LIABILITY
The Client agrees to limit the landscape architect’s liability to the Client and to all construction contractors and subcontractors on the project due to the landscape architect’s negligent acts, errors or omission, such that the total aggregate liability of the landscape architect shall not exceed the amount of the landscape architect’s contractual fee. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

OPINIONS OF PROBABLE CONSTRUCTION COSTS
The landscape architect has no control over the cost of labor, materials, or equipment, or over the contractor’s method of determining prices, or over competitive bidding or market conditions. Our opinions of probable construction costs provided for herein are to be made on the basis of our firm’s experience and qualifications. These opinions represent our best judgment due to our familiarity with the construction industry. However, we cannot and do not guarantee that proposals, bids, or the construction cost will not vary from opinions of probable cost prepared by us. If the Client wishes greater assurance as to the construction cost, he shall employ an independent cost estimator.

PROJECT RESTART FEE
Because of substantial costs incurred by the landscape architect to stop and restart a project once it is underway, should this project’s progress be halted at any time for 30 or more days by the Client, for any reason other than agency approval process delay, a project restart fee of $500.00 or 10% of the total fee earned to date, whichever is greater, will be due and payable immediately.

TERMINATION OF AGREEMENT
This agreement may be terminated by either party upon seven (7) days written notice via registered mail, should the other party fail substantially to perform in accordance with its terms through no fault of the other. In the event of termination due to the fault of others, the landscape architect shall be paid his compensation for expenses then due. If a dispute arises under this contract and litigation is instituted, the prevailing party shall be entitled to recover its reasonable attorney fees.
Parking Lot Improvements - IFB 19-020 - City of Banning
Landscape Architecture Services

DISPUTE RESOLUTION
Client and landscape architect agree to mediate disputes arising out of or relating to this agreement before initiating litigation. The mediation shall be conducted by a mediation service acceptable to both parties. A party shall make a demand for mediation within a reasonable time after a claim or dispute arises, and the parties agree to mediate in good faith. In no event shall any demand for mediation be made after such a claim or dispute would be barred by applicable law. Mediation fees shall be shared equally.

NOTICE
Landscape architects are regulated by The State of California. Any questions concerning a landscape architect may be referred to The Landscape Architects Technical Committee, 2420 Del Paso Road, Suite 105, Sacramento, CA 95834 (916) 575-7230.
STATEMENT OF QUALIFICATIONS

Hermann Design Group, Inc.
Incorporated 2009 (California S-Corporation)
Offices in Palm Desert and Riverside
Six Full-Time Employees
Hours of Operation: Monday - Friday 8:00 a.m. to 5:00 p.m.
Formerly Hermann & Associates (Sole Proprietorship 1995-2009)
President/CEO - Chris Hermann

Hermann Design Group, Inc. was founded in 1995 in Palm Desert, California as Hermann & Associates. Our founding philosophy was to create a firm by which we are able to work on unique projects and allow for Mr. Hermann to lead the design process and build relationships with clients that will last for a lifetime. We evaluate the distinct needs and desires of our clients through creative thinking, and we provide the right solutions for individual projects. Our design solutions always consider the sustainability of our valuable environment.

We have extensive experience designing projects that are LEED certified and include sustainable practices. Our team has worked on projects for a number of public agencies including CVAG, CVEP, the Counties of Riverside and San Bernardino, and most of the Cities in the Coachella Valley. While employed by others, our principals have worked with the City of Banning, and we look forward to the possibility of working with you again.

Hermann Design Group provides a wide range of landscape architecture and planning services to assist public agencies and private developers in the design of public spaces and facilities, including:

- Parks - Regional, Neighborhood, Community, Memorial
- Trails and Interpretative Sites
- Sports Facilities
- Golf Courses
- Natural and Historic Sites
- Commercial/Retail/Industrial
- Hotels
- Hospitals
- Master-Planned Communities

Hermann Design Group is a healthy firm financially with no issues that would affect our ability to complete our obligations with the City of Banning. We are profitable and strategic about our growth so that we will remain a successful enterprise.

Additionally, Hermann Design Group certifies that the firm and its principals are in good standing with all licensing boards and is eligible to contract with any federal, state or local public agency.
HERMANN DESIGN GROUP, INC.

CHRIS HERMANN, RLA/ASLA, PRINCIPAL IN CHARGE

Chris, a graduate of the Pennsylvania State University, is the founder of Hermann Design Group. He has designed and overseen the construction of public and private development projects throughout his career. He began designing landscape projects in the Coachella Valley in 1989 and has been a resident for over 20 years. In 1983 he started the landscape architecture department for CUH2A, one of the nation’s largest multi-disciplinary architecture and engineering firms. He gained valuable experience working hand-in-hand with the civil engineering and architectural departments, solving a variety of design challenges. Before moving to the Coachella Valley, he was a principal at RHA Landscape Architects-Planners, Inc. in Riverside, a firm he had been with for nearly ten years. At RHA, Chris was principal-in-charge of parks, recreation centers, schools, master-planned communities, and other public sector work as well.

Hermann Design Group was founded in Palm Desert in 1995. During the span of two decades, Chris has worked with the majority of the Cities in the Coachella Valley, as well as the many of the large and small private developers who have operated in our valley. As one of founders of Aunt Effie’s Gardens in Palm Springs in 2009, Chris had a unique opportunity to expand his design and horticultural knowledge by “living” with the plant material specified in his projects until the business was sold in the summer of 2013.

Additionally, Chris has served on City architectural design review committees, as well as the boards for the Building Industry Association, FCA, the Humana Challenge, and Links Players. He is also tapped annually to be a guest instructor for UCR’s Master Gardener program.
CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Brandon Robinson, Associate Electrical Engineer
Tom Miller, Electric Utility Director

MEETING DATE: February 26, 2019


RECOMMENDED ACTION:

The City Council consider adopting Resolution 2019-XX:

1. Amending Fiscal Year 2019 and 2020 public benefits budget to include energy efficiency and solar PV evaluation specifically for Banning Unified School District ("BUSD") solar projects at an amount not to exceed $60,000 for the Electric Utility.

2. Authorizing the Electric Utility Director or his/her designee to approve additional public benefits spending for Fiscal Year 2019 and 2020 upon the direction of Banning City Council, and shall not exceed $60,000 unless otherwise agreed to in writing by the City of Banning.

BACKGROUND:

Banning Electric Utility ("Utility") is a retail electrical energy distribution provider and load serving entity serving 13,000 end-use residential, commercial, and industrial customers. The Utility is the authority having jurisdiction over the interconnection of distributed energy resources to the electric distribution grid. On January 1, 2018, the Utility entered into a master goods and services agreement with Richard Heath & Associates (RHA) through Southern California Public Power Authority ("SCPPA") to provide energy efficiency related services at customer owned facilities within the Utility’s service area. The Utility recognized a need for RHA to evaluate the larger commercial solar projects that were being brought forth in order to understand the potential impact on the Utility’s distribution electric grid. Precautionary methods must be considered to ensure that the proposed PV system does not have detrimental effects on the utility substation feeding
the circuit where the PV system is to be connected. Per Banning Electric Utility Standard Rules and Regulations Rule #9 Section D, the Utility has the authority to discontinue the operation of equipment or facilities that creates a detriment to the Utility and the customers that it serves. Common threats to the Utility’s distribution circuitry such as harmonic distortion and insufficient power factor can affect the electric distribution systems reliability and efficiency. It is important for the Utility to get ahead of these possible impacts prior to interconnection of large solar PV systems to the grid.

The first commercial solar project evaluation and power quality analysis occurred at the KOA Campgrounds in Banning due in large part to a 286kW solar PV system being installed at the site. Although the Utility did not find any issues related to power quality or harmonics, the Utility required the customer to install a permanent power quality analyzer to provide a constant measurement of the total harmonic distortion and power factor that can be viewed by the Utility at any time. The solar PV project at KOA Campground would be used as a baseline and benchmark for energy performance for future commercial solar projects.

Soon after BUSD began the installation of six proposed large commercial solar facilities at their various school sites, the first at Coombs Middle School. Upon interconnection to the grid, the Utility noticed that the three-phase power factor of the energy being exported through the utility meter was down to around 0.48 or 48%. The low power factor was found to be attributed to the result of adding only additional real power (kW) back to the main switchgear without contributing any additional reactive power (kVar) to the system. Since the connected load at Coombs consumes both Active Power (kW) and Reactive Power (kVar), the grid needs to supply all the Reactive Power (kVar) consumed by the school that the PV system does not supply, which reduces the power factor. This was a great concern due to the fact that optimal power factor recognized industry wide is above 90% or 0.90. As a result, the Utility required BUSD to disconnect the solar PV system at the grid interconnection point so that their engineering contractor that installed the system could investigate the matter.

After consulting with BUSD about the power factor issues at the Coombs Middle School, the Utility agreed to assist BUSD with a power quality analysis at the campus and would use RHA’s services to complete and compile a report. RHA conducted an audit that measured both power factor and harmonic distortion throughout the campus. RHA concluded that BUSD would need to install two static VAR generators that would cover up to 150 kVar of reactive power compensation to correct the onsite power factor issues. Estimated costs associated with this method of correction as well as other options are attached in the power quality analysis herewith as attachment 2. The total cost to conduct the power quality analysis and compile the report at Coombs Middle School was approximately $8,000.

ISSUES/ANALYSIS:

Based on the current and upcoming commercial solar projects with BUSD, the Utility has a substantial need for RHA to continue to perform power quality evaluations at each school site where solar PV systems are to be installed. The current agreement between the Utility and SCPPA allows for the use of RHA as a resource to complete the tasks required in the Utility’s recommendation. The Utility will require RHA to do an
independent evaluation for each school site prior to the execution of the interconnection agreement between the Utility and BUSD for each site to ensure that power quality requirements are met. BUSD has requested that these activities be carried out as soon as functionally possible per their letter to the utility dated February 11, 2019 herewith as attachment 3.

Staff requests that the Electric Utility Director or his/her designee, under approval of this resolution, be given the authority to approve additional public benefits expenditures for the Utility for the evaluation of BUSD solar projects during Fiscal Years 2019 and 2020, not exceed $60,000 unless otherwise agreed to in writing by the City of Banning.

FISCAL IMPACT:

The Electric Utility’s public benefits budget will fund the engineering services expenditures.

ALTERNATIVE:

1. Reject Resolution 2019-XX and provide direction.

ATTACHMENTS:

1. Resolution No. 2019-XX

Approved by:

[Signature]

Douglas Schulze
City Manager
ATTACHMENT 1
Resolution 2019-XX
RESOLUTION 2019-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING FUNDS TO PROVIDE ENERGY EFFICIENCY AND PHOTOVOLTAIC SOLAR SYSTEM EVALUATION AT BANNING UNIFIED SCHOOL DISTRICT FACILITIES “NOT TO EXCEED” $60,000 FOR FISCAL YEARS 2019 AND 2020.

WHEREAS, the Electric Utility is a retail electrical energy distribution provider and load serving entity serving end-use residential, commercial, and industrial customers; and

WHEREAS, the Utility has the authority to regulate operation of equipment or facilities such as distributed energy resources that interconnect to the Utility and the customers that it serves; and

WHEREAS, the Utility has the authority to recommend or require retail customers to operate within acceptable power quality standards; and

WHEREAS, the Utility recognized a need to require Banning Unified School District to correct power quality issues at Coombs Intermediate School and other School District facilities that have applied for solar photovoltaic system interconnection to the Utility grid; and

WHEREAS, funding for the Electric Utility and Robert Heath & Associates to assist with power quality analysis for the School District is available within the public benefits fund budget; and

WHEREAS, allocations for the Utility and RHA to complete power quality analysis and remediation assistance shall not exceed $60,000 for Fiscal Years 2019 and 2020 for the Electric Utility unless otherwise agreed to in writing by the City of Banning; and

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

SECTION 1. The Banning City Council adopts Resolution 2019-XX amending Fiscal Year 2019 and 2020 public benefits budget to include energy efficiency and solar PV evaluation specifically for Banning Unified School District solar projects at an amount not to exceed $60,000 for the Electric Utility.

SECTION 2. The City Manager or the Electric Utility Director, is authorized to approve additional public benefits spending for Fiscal Year 2019 and 2020 upon the direction of Banning City Council, and shall not exceed $60,000 unless otherwise agreed to in writing by the City of Banning.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.
PASSED, APPROVED AND ADOPTED this 26th day of February, 2019.

ATTEST:

Daryl Betancur, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, Esq. City Attorney
Richards, Watson & Gershon

Arthur L. Welch, Mayor
City of Banning
CERTIFICATION:

I, Daryl Betancur, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2019-10 was duly adopted by the City Council of the City of Banning, California, at a Regular Meeting thereof held on the 26th day of February 2019, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

__________________________________________
Daryl Betancur, City Clerk
City of Banning
ATTACHMENT 2
Power Quality Analysis at Coombs Intermediate School Report
February 2019
Power Quality Analysis at
Coombs Intermediate School
(Harmonics Update)

February 2019

Prepared for:
Susan B. Coombs Intermediate School
1151 W Wilson St,
Banning, CA 92220

Submitted By:

Richard Heath & Associates, Inc.
rhainc.com

On Behalf of:

176 E. Lincoln St.,
Banning, CA 92220
Disclaimer:
The attached report is prepared by Richard Heath and Associates, Inc. (RHA) on behalf of City of Banning Electric Utility. This study was conducted with reasonable care and in accordance with professional standards. The results were based on the Measurement & Verifications (M&V) process at the time of the study, the actual results may change and are subject to operating conditions.
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1 BACKGROUND

Susan B. Coombs Intermediate school (Coombs) has been experiencing poor power factor (PF) issues for more than a year, recently it has been exacerbated by the connection of the newly installed 102.5 kWAC ground mounted solar system. City of Banning involved RHA to identify the cause(s) of the issue and recommend solution(s) to the poor power quality experience at the school.

The power factor at the facility has been in the range of the 0.6 to 0.7 (before connecting the solar system) which is relatively low compared to near unity power factor the utility provides; as a result, the school has been paying an additional cost associated with power factor adjustment. After connecting the solar PV system, City of Banning concluded that the average power factor decreased even more to levels less than 0.4.

An energy audit was performed to gather the existing connected load data. In addition, spot-measurements were taken with the power quality meter (WECO WE-20) to gather the power quality information at different load conditions:

- Low-load conditions
- Low-load with solar PV on
- Full-load conditions
- Full-load with solar PV on

2 WHAT IS POWER FACTOR?

Power Factor (PF) is a measurement of how effectively electrical power is being used. The higher the power factor, the more efficiently electrical power is being utilized.

All inductive loads require two kinds of power to function properly:
1. Real power (kW) - performs the actual work
2. Reactive power (kVAR) - sustains the electromagnetic field

Power factor is usually expressed as a percentage or a decimal less than or equal to 1. When the power factor is at unity (PF=1.0), the current and voltage are synchronized optimizing the electrical power. When the power factor is less than unity (PF<1.0) the current and voltage are out of sync and power is being wasted. Inductive loads cause the power factor to be “lagging” while capacitor loads cause a “leading” power factor.
Graph 1 provides a visual of the power factor behavior under different loads: resistive, inductive and capacitive.

**Graph 1. Power Factor**

![Graph 1: Power Factor](https://chargedevs.com/features/a-closer-look-at-power-factor-correction/)

Source: [https://chargedevs.com/features/a-closer-look-at-power-factor-correction/](https://chargedevs.com/features/a-closer-look-at-power-factor-correction/)

Graph 2 represents the real-world effects of an electrical system with less than unity power factor. When the current and the voltage waveforms are out of sync, the system is working less efficiently, producing wasted energy.

**Graph 2. Power Factor and Energy Efficiency**

![Graph 2: Power Factor and Energy Efficiency](http://www.advancedelectrical.org.uk/what-we-do/power-factor-correction/)

3 ENERGY CONSUMPTION AND DEMAND:

Graph 3 depicts the monthly maximum real power consumption and reactive power consumption from October 2017 to September 2018. The secondary axis includes the average power factor reported for each month. It can be observed from the graph that the power factor of the facility is in the range of 0.60 to 0.70 which is relatively low.

**Graph 3: Monthly Consumption (kWh vs kVARh)**

Graph 4 clearly shows that the reported average power factor reduced significantly due to the connection of the solar PV system.

**Graph 4: Average Power Factor (PF)**

*Note:* The PF shown for the month of October is an average power factor between 10/10/18 to 10/22/18 while solar PV system was active.
4 Existing Load Conditions

Through the energy audit RHA identified the existing connected load at the facility which was balanced against the past 12-month’s electricity billing data. It was estimated that 48% of the electric demand is attributed to HVAC, 7% is for motors, 5% is for Refrigeration, 12% is attributed to the lighting, and 27% to Miscellaneous Equipment.

Chart A: Electric Demand Distribution (kW)

![Chart A: Electric Demand Distribution (kW)](image)

Table 1: Electric Demand (kW) Distribution

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<tr>
<th>Description</th>
<th>Electric Demand (kW)</th>
<th>% of kW</th>
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<td>HVAC units</td>
<td>65.7</td>
<td>48%</td>
</tr>
<tr>
<td>Motors</td>
<td>9.6</td>
<td>7%</td>
</tr>
<tr>
<td>Refrigeration</td>
<td>7.3</td>
<td>5%</td>
</tr>
<tr>
<td>Lighting</td>
<td>16.5</td>
<td>12%</td>
</tr>
<tr>
<td>Miscellaneous Equipment</td>
<td>36.9</td>
<td>27%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>136.00</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>
Power Quality Measurements

To get a better understanding of the power quality at the site, spot measurements were taken with the utility power quality analyzer WECO WE-20 on December 20th, 2018. The readings were taken at the main service meter under the following four scenarios.

**Scenario 1** (Low Load Conditions)

<table>
<thead>
<tr>
<th>Lighting</th>
<th>HVAC Gas Heating (Fans Only)</th>
<th>HVAC Cooling</th>
<th>Ventilation Fans</th>
<th>Solar PV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partially ON</td>
<td>Partially ON</td>
<td>All ON</td>
<td>All ON</td>
<td>Turned ON</td>
</tr>
</tbody>
</table>

**Scenario 2** (Low Load Conditions with Solar)

<table>
<thead>
<tr>
<th>Lighting</th>
<th>HVAC Gas Heating (Fans Only)</th>
<th>HVAC Cooling</th>
<th>Ventilation Fans</th>
<th>Solar PV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partially ON</td>
<td>Partially ON</td>
<td>All ON</td>
<td>All ON</td>
<td>Turned ON</td>
</tr>
</tbody>
</table>

**Scenario 3** (Full Load Conditions)

<table>
<thead>
<tr>
<th>Lighting</th>
<th>HVAC Gas Heating (Fans Only)</th>
<th>HVAC Cooling</th>
<th>Ventilation Fans</th>
<th>Solar PV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partially ON</td>
<td>All ON</td>
<td>All ON</td>
<td>All ON</td>
<td></td>
</tr>
</tbody>
</table>

**Scenario 4** (Full Load with Solar PV ON)

<table>
<thead>
<tr>
<th>Lighting</th>
<th>HVAC Gas Heating (Fans Only)</th>
<th>HVAC Cooling</th>
<th>Ventilation Fans</th>
<th>Solar PV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partially ON</td>
<td>All ON</td>
<td>All ON</td>
<td>All ON</td>
<td>Turned ON</td>
</tr>
</tbody>
</table>
During full load conditions, the facility was consuming 133 kW of active power, and 141 kVAR of reactive power, resulting in a power factor of 0.68 lagging.

**Image 3: Coombs Solar Diagram**

![Solar Diagram](image)

**Image 5: Full Load - Solar Off**

![Diagram with calculations](image)

\[ PF = \cos(46.6) = 0.68 \]

**Image 6: Full Load - Solar On**

![Diagram with calculations](image)

\[ PF = \cos(64.1) = 0.43 \]

Image 5 illustrates the power diagram at Coombs for the full load - solar off condition tested during the power quality measurements. Image 6 illustrates the power diagram for the full load - solar on condition. Since the solar PV system only produces Active Power (kW) and Coombs consumes both Active Power (kW) and Reactive Power (kVAR), the grid needs to supply all the Reactive Power (kVAR) consumed by the school reducing the power factor from 0.68 to 0.43.
6  Power Quality Analysis

There are two types of loads that affect the power quality of an electrical system: linear and non-linear loads. Linear loads consist of resistive, inductive or capacitive loads that can affect the power quality of the electrical system. Non-linear loads displace the current and the voltage waveforms thus reducing power factor. This type of load is the main culprit in the 0.68 power factor at Coombs.

Non-linear loads such as rectifiers and power electronic devices distort the current and voltage waveforms causing harmonics within the electrical system. Harmonics can be present in the current, in the voltage or in both waveforms depending on the severity of the problem.

6.1  Low Power Factor

City of Banning Electric Utility delivers power to Coombs at near unity power factor to ensure proper equipment function. During the power factor analysis, it was found that during normal year-round operations at Coombs, the Power Factor was metered to be approximately 0.65 (PF=0.65) lagging.

When the solar PV system was connected in October 2018 the power factor dropped to about 0.31 (PF=0.31) lagging. The low power factor was confirmed on 12/20/18 when power quality metering at school was performed, the power factor at full-load conditions was measured at about 0.43 (PF=0.43) lagging.

Based on the analysis it was noted that more than 60% of the facility load consists of motors which are inductive loads that require real power (kW) and reactive power (kVar) to operate.

In motors, power factor increases with the load and reaches a peak at or near full load of the motor. Inversely, the motor power factor decreases at lower load conditions. In lower load condition motors require relatively high reactive power compared to the real power to sustain the electromagnetic field and keep it running. Due to the low power factor experienced at the school and the large number of motors present, it can be concluded that low load motor conditions are causing the reduced power factor.

In addition, old motors are less efficient and have lower power factor ratings than newer high efficiency motors.
6.2 CURRENT HARMONICS

Non-Linear loads in the AC power system create distorted sine waveforms called harmonics. Sources of non-linear loads include: computer equipment, laser printers, fax machines, photocopiers, variable speed motors and drives, battery chargers, fluorescent lighting and LEDs to name a few.

**Image 7: Current Harmonics**

![Diagram of current harmonics](http://www.acdrive.org/ac-drive-harmonics.html)

During the power quality measurements, periodic spikes of current Total Harmonic Distortion (THD) were recorded while the solar PV system was non-operational. After connecting the solar PV system, the duration of the spikes in current harmonics increased leading us to believe that the integration of the solar PV system may have aggravated the periodic spikes in current harmonics. However, the sample size was not long enough to conclude this.

Image 8 shows the current harmonics at the full load – solar on condition.

**Image 8: Current Harmonics at Coombs**

[Table showing current harmonics]
It is normal for an AC electrical system to have current harmonics if they are present in low amounts. High number of current harmonics in the electrical system will cause issues with equipment. “Left un-treated, harmonic loads can reduce the distribution capacity and degrade the quality of the power of public utility power systems, increase power and AC costs, and result in equipment malfunctions such as communication errors and data loss. The effect on the public power system has led regulatory agencies to set lower harmonic levels and power utilities to charge more for wasted energy.”

6.2.1 Detailed Current Harmonic Analysis

On January 25, 2019, power quality testing was performed at Banning Coombs Intermediate School to measure the site’s current harmonic content. This section will go into detailed results and observations based on the data that was recorded.

The main goal during the metering process was to obtain the power quality, specifically harmonic content, for the power coming from the utility as well as from the solar PV system. Two measurement points were made, Measurement Point #1 (MP-1) is a meter connection at the PCC (Point of common coupling) and Measurement Point #2 (MP-2) is a connection where the solar PV power is fed into the system. Those two measurement points were chosen to determine how the overall infrastructure behaves with the solar power connected.

A total of four detailed measurements were captured, three detailed measurements at MP-1 and one detailed measurement at MP-2, the criteria was as follows:

Table 2: Measurement Criteria

<table>
<thead>
<tr>
<th>Measurement #</th>
<th>Measurement Point</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>MP-1</td>
<td>Baseline, Solar Off</td>
</tr>
<tr>
<td>2</td>
<td>MP-1</td>
<td>Baseline, Solar On</td>
</tr>
<tr>
<td>3</td>
<td>MP-1</td>
<td>Max Power, Solar On</td>
</tr>
<tr>
<td>4</td>
<td>MP-2</td>
<td>Solar PV On</td>
</tr>
</tbody>
</table>

To see the baseline, we had normal operating conditions, i.e. no Air Conditioning (AC) Units or other larger loads and no solar power, connected. The second point measured was taken with the baseline with the solar PV system on. For maximum load, we asked that all ACs were turned on for a short period to avoid cooling the class rooms down from their normal ambient temperature. The last measurement point was at the solar PV system which details the PV system operation during that time.

Figure 1 through 4 illustrate the harmonic metering results that includes: Voltage, Current, Voltage Harmonics THD(V), Current Harmonics THD(I), reactive power and power factor.

---

Figure 1: Baseline Measurement at MP-1

Figure 2: Baseline and Solar Power On Measurement at MP-1

Solar Inverter Turn On period
Figure 3: Maximum Power and Solar Power On Measurement at MP-1

Figure 4: Solar Power On Measurement at MP-2
Table 2 represents the harmonic metering results for Figure 1 through 4. The average readings for each measurement taken with the power quality analyzer were used. The TDD was calculated to compare the results with IEEE519-2014 recommendations.

**Table 3: Harmonic Metering Results**

<table>
<thead>
<tr>
<th>Measurement Type</th>
<th>Baseline, Solar Off</th>
<th>Baseline, Solar On</th>
<th>Max Power, Solar On</th>
<th>Solar PV System Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>L12 RMS Voltage</td>
<td>485.24</td>
<td>486.44</td>
<td>483.52</td>
<td>486.72</td>
</tr>
<tr>
<td>L23 RMS Voltage</td>
<td>487.87</td>
<td>489.12</td>
<td>485.78</td>
<td>489.21</td>
</tr>
<tr>
<td>L31 RMS Voltage</td>
<td>486.67</td>
<td>487.84</td>
<td>484.55</td>
<td>487.86</td>
</tr>
<tr>
<td>L1 RMS Current</td>
<td>96.07</td>
<td>54.45</td>
<td>168.04</td>
<td>80.11</td>
</tr>
<tr>
<td>L2 RMS Current</td>
<td>109.17</td>
<td>82.29</td>
<td>190.21</td>
<td>76.90</td>
</tr>
<tr>
<td>L3 RMS Current</td>
<td>80.72</td>
<td>67.39</td>
<td>174.72</td>
<td>77.11</td>
</tr>
<tr>
<td>L12 THD Voltage</td>
<td>2.31</td>
<td>2.29</td>
<td>2.00</td>
<td>2.23</td>
</tr>
<tr>
<td>L23 THD Voltage</td>
<td>2.36</td>
<td>2.38</td>
<td>2.11</td>
<td>2.30</td>
</tr>
<tr>
<td>L31 THD Voltage</td>
<td>2.28</td>
<td>2.22</td>
<td>1.96</td>
<td>2.13</td>
</tr>
<tr>
<td>L1 THD Current</td>
<td>13.75</td>
<td>32.87</td>
<td>12.80</td>
<td>3.17</td>
</tr>
<tr>
<td>L2 THD Current</td>
<td>9.66</td>
<td>17.12</td>
<td>10.02</td>
<td>2.62</td>
</tr>
<tr>
<td>L3 THD Current</td>
<td>10.28</td>
<td>14.75</td>
<td>7.98</td>
<td>4.08</td>
</tr>
<tr>
<td>VAR</td>
<td>52.100</td>
<td>53.589</td>
<td>132.315</td>
<td>(3.733)</td>
</tr>
<tr>
<td>PF</td>
<td>0.76</td>
<td>0.01</td>
<td>0.46</td>
<td>(1.00)</td>
</tr>
<tr>
<td>TDD*</td>
<td>7.85</td>
<td>10.36</td>
<td>13.31</td>
<td>2.58</td>
</tr>
</tbody>
</table>

*The TDD was calculated using the true RMS voltage and current values*

Based on Figure 5 (Table 2 in the IEEE519-2014 recommendations) the TDD for this system should be less than 15%, no harmonic filter is required at the facility at this point. This was determined by calculating the short circuit current over load current ratio to be in the range of 215 to 258 (refer to Appendix C for calculations and parameters).

**Figure 5: IEEE519-2014 Current Harmonic Recommendations**

**Table 2—Current distortion limits for systems rated 120 V through 69 kV**

<table>
<thead>
<tr>
<th>Individual harmonic order (odd harmonics)</th>
<th>Maximum harmonic current distortion in percent of $I_L$</th>
</tr>
</thead>
<tbody>
<tr>
<td>$I_{min}/I_L$</td>
<td>3 ≤ $h$ &lt; 11</td>
</tr>
<tr>
<td>$I_{min}/I_L$</td>
<td>11 ≤ $h$ &lt; 17</td>
</tr>
<tr>
<td>$I_{min}/I_L$</td>
<td>17 ≤ $h$ &lt; 23</td>
</tr>
<tr>
<td>$I_{min}/I_L$</td>
<td>23 ≤ $h$ &lt; 35</td>
</tr>
<tr>
<td>$I_{min}/I_L$</td>
<td>35 ≤ $h$ ≤ 50</td>
</tr>
<tr>
<td>TDD</td>
<td></td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>4.0</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>2.0</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>1.5</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>0.6</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>0.3</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>0.5</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>8.0</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>12.0</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>10.0</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>4.5</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>4.0</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>1.5</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>0.7</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>12.0</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>15.0</td>
</tr>
<tr>
<td>20 ≤ $I_{min}/I_L$</td>
<td>20.0</td>
</tr>
</tbody>
</table>

*Even harmonics are limited to 25% of the odd harmonic limits above.

*Current distortions that result in a dc offset, e.g., half-wave converters, are not allowed.

*All power generation equipment is limited to these values of current distortion, regardless of actual $I_{min}/I_L$.

where $I_{min}$ = maximum short-circuit current at PCC

$I_L$ = maximum demand load current (fundamental frequency component)
at the PCC under normal load operating conditions.
6.3 Voltage Harmonics

The voltage harmonics remained under the Institute of Electrical and Electronics Engineers (IEEE) maximum recommendations. IEEE 519-2014 recommends a voltage THD or less than 8% of the fundamental.

![Image 9: Voltage Harmonics at Coombs](image)

7 Power Factor Settings of the Inverter

The solar PV system at Coombs has two inverters (HPVI-50TL) equipped with reactive power control features which can be configured to produce both real and reactive power. The power factor of the inverters can be set to 1.0 all the way down to 0.8 (leading or lagging). By setting the inverter power factor to 0.8 leading, the facility power factor can be improved; however, it will not be enough for this project as the size of the inverter was not designed to improve the power factor.

Selecting an inverter that produces more reactive power during the design phase of the project can be improved the power factor, however, lowering the inverter power factor may reduce the amount of energy produced by the solar PV system.
8 RECOMMENDED SOLUTIONS

To improve the power quality at Coombs Intermediate School, three solutions have been proposed. The first alternative addresses both power quality issues by improving the power factor and the current harmonic content. The second option directly focuses on the power factor increasing it to near unity. The third and final option uses a traditional approach (capacitor banks) to improve the power factor and remove harmonics from the system.

The first two solutions use static VAR generators which compensate for inductive or capacitive reactive power on an as-needed basis to automatically improving the power factor. The static VAR generator is more effective at improving the power factor when compared to traditional capacitor banks, key features include:

- Use of current transformer (CT) to automatically control the power factor
- High speed response
- Unaffected by harmonic resonance
- Compensates for both inductive reactive power and capacitive reactive power

**Image 10: Static VAR Generator**

![Static VAR Generator Image](https://www.enerdoor.com/products/view/finsvg-active-static-var-generator)
8.1 Static VAR Generator with Active Filters

This option addresses the poor power factor and harmonics by installing one (75 kVAR) static VAR generator and active harmonic filter. The active harmonic filter is suggested to reduce the period spikes in current harmonics. Active harmonic filters provide fast response time to load changes while compensating for harmonic distortion.

Table 4: Static VAR Generator with Active Filters

<table>
<thead>
<tr>
<th>Description</th>
<th>Price ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 VAR Generator</td>
<td>$6,804.88</td>
</tr>
<tr>
<td>1 Harmonic Filter</td>
<td>$14,158.54</td>
</tr>
<tr>
<td>Engineering</td>
<td>$6,621.95</td>
</tr>
<tr>
<td>Installation</td>
<td>$2,477.66</td>
</tr>
<tr>
<td>NEMA 3 Enclosure</td>
<td>$1,585.37</td>
</tr>
<tr>
<td>Concrete Slab</td>
<td>$1,907.32</td>
</tr>
<tr>
<td>DSA admin Cost</td>
<td>$1,219.51</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$34,775.22</strong></td>
</tr>
</tbody>
</table>

8.2 Two Static VAR Generators

This option addresses the poor power factor by installing two static VAR generators. The two VAR generator would cover up to 150 kVAR of reactive power compensation. No harmonic filters are needed in this case since the static VAR generator is unaffected by harmonic voltage or current components.

Table 5: Two Static VAR Generators

<table>
<thead>
<tr>
<th>Description</th>
<th>Price ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 VAR Generators</td>
<td>$13,609.76</td>
</tr>
<tr>
<td>Harmonic Filter</td>
<td>$-</td>
</tr>
<tr>
<td>Engineering</td>
<td>$5,951.22</td>
</tr>
<tr>
<td>Installation</td>
<td>$2,477.66</td>
</tr>
<tr>
<td>NEMA 3 Enclosure</td>
<td>$1,585.37</td>
</tr>
<tr>
<td>Concrete Slab</td>
<td>$1,907.32</td>
</tr>
<tr>
<td>DSA admin Cost</td>
<td>$1,219.51</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$26,750.83</strong></td>
</tr>
</tbody>
</table>
8.2.1 POWER FACTOR CALCULATIONS

To properly size the VAR Generators needed to increase the power factor at Coombs Intermediate School, we tabulated the previous 12 months with solar PV generation and VAR Generation. The solar PV system kW is only an example of generation throughout the different months, actual generation will vary and will impact the resulting power factor.

By installing two (75 kVAR) VAR Generators the district can expect a power factor in the range of 0.86 to 0.91 in worst case scenario. Depending on the load, a higher power factor can be achieved with ranges from 0.9 to 0.95 power factor. In addition, balancing the loads within the school will help increase the power factor, the voltage and current graphs show an imbalanced system.

Table 6: Power Factor Calculations with VAR Generator

<table>
<thead>
<tr>
<th>Month</th>
<th>Current System</th>
<th>Solar PV System</th>
<th>VAR Generator</th>
<th>Proposed Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Average PF</td>
<td>Peak kW</td>
<td>Peak kW</td>
<td>VAR Peak</td>
</tr>
<tr>
<td>Oct-17</td>
<td>0.69</td>
<td>112</td>
<td>84</td>
<td>80</td>
</tr>
<tr>
<td>Nov-17</td>
<td>0.66</td>
<td>108</td>
<td>84</td>
<td>73</td>
</tr>
<tr>
<td>Dec-17</td>
<td>0.66</td>
<td>80</td>
<td>60</td>
<td>68</td>
</tr>
<tr>
<td>Jan-18</td>
<td>0.61</td>
<td>64</td>
<td>56</td>
<td>63</td>
</tr>
<tr>
<td>Feb-18</td>
<td>0.63</td>
<td>64</td>
<td>56</td>
<td>65</td>
</tr>
<tr>
<td>Mar-18</td>
<td>0.64</td>
<td>64</td>
<td>56</td>
<td>69</td>
</tr>
<tr>
<td>Apr-18</td>
<td>0.61</td>
<td>92</td>
<td>96</td>
<td>73</td>
</tr>
<tr>
<td>May-18</td>
<td>0.64</td>
<td>96</td>
<td>84</td>
<td>78</td>
</tr>
<tr>
<td>Jun-18</td>
<td>0.59</td>
<td>88</td>
<td>88</td>
<td>78</td>
</tr>
<tr>
<td>Jul-18</td>
<td>0.63</td>
<td>116</td>
<td>100</td>
<td>88</td>
</tr>
<tr>
<td>Aug-18</td>
<td>0.68</td>
<td>136</td>
<td>112</td>
<td>98</td>
</tr>
<tr>
<td>Sep-18</td>
<td>0.66</td>
<td>112</td>
<td>96</td>
<td>88</td>
</tr>
</tbody>
</table>
8.3 Capacitor Bank with Line Reactors

This approach takes a more traditional way of compensating for low power factor and harmonic distortion. To improve the power factor, a 4-stage capacitor bank would be used. The set of capacitors will switch according to the reactive power necessary to compensate for the poor power factor. Due to the nature of capacitors, harmonic distortion within the system needs to be removed for proper function. Line reactors would be installed capable of filtering the current waveform and attenuates electrical noise and transients associated with the system.

**Table 7: Capacitor Bank with Line Reactors**

<table>
<thead>
<tr>
<th>Description</th>
<th>Price ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Stage Capacitor Bank</td>
<td>$10,975.61</td>
</tr>
<tr>
<td>Linear Reactors</td>
<td>$25,609.76</td>
</tr>
<tr>
<td>Engineering</td>
<td>$5,951.22</td>
</tr>
<tr>
<td>Installation</td>
<td>$2,477.66</td>
</tr>
<tr>
<td>NEMA 3 Enclosure</td>
<td>$2,439.02</td>
</tr>
<tr>
<td>Concrete Slab Cost</td>
<td>$2,313.41</td>
</tr>
<tr>
<td>DSA admin Cost</td>
<td>$1,219.51</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$50,986.20</strong></td>
</tr>
</tbody>
</table>
APPENDIX A: FACILITY IMAGES

EMS System

LED Lighting

Electrical Sub-Panel

Evaporator Fan Unit
Ventilation Fans

Solar PV Gross Meter, AC Disconnects and other components
# APPENDIX B: EQUIPMENT INVENTORY

## HVAC units

<table>
<thead>
<tr>
<th>Equipment Type</th>
<th>Manufacturer</th>
<th>Model Number/ID Number</th>
<th>Year Built</th>
<th>Quantity</th>
<th>Size (Tons/Unit)</th>
<th>Cooling Capacity</th>
<th>Connected Load (kW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Package Unit</td>
<td>Carrier</td>
<td>24AB85360A600</td>
<td>2008</td>
<td>1</td>
<td>3.00</td>
<td>3.0</td>
<td>2.91</td>
</tr>
<tr>
<td>Package Unit</td>
<td>Trane</td>
<td>YSCD72E4EXA0001</td>
<td>2008</td>
<td>1</td>
<td>6.00</td>
<td>6.0</td>
<td>5.83</td>
</tr>
<tr>
<td>Package Unit</td>
<td>Trane</td>
<td>YSCD72E4EXA0000</td>
<td>2008</td>
<td>1</td>
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# Refrigeration

Copyright © 2019 Richard Heath & Associates, Inc.
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**Lighting:**

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APPENDIX C: CURRENT HARMONICS RATIO

The following parameters were used in calculating the short circuit current over load current ratio.

Max I(L) (Amps)  240
Transformer kVA  1500
Secondary Voltage  280

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ATTACHMENT 3
February 11, 2019

Torn Miller,
City of Banning Electric Utility Director
Banning, CA 92220
Email: tmiller@ci.bann.ca.us

Via E-Mail

Re: Status of Banning Unified School District Solar Projects

Dear Mr. Miller,

Since our previous meetings have been successful, we feel another meeting with BE is needed to hopefully speed up the approval process of the District’s solar projects. Below are a list of items regarding Banning Unified School District (District) solar projects, which also involve Banning Electric (BE).

1. BE indicated in our previous sit-down meeting that they would accept and review multiple drawing packages; that reasoning for delay on the Coombs drawing set had been a lack of people, so they were getting an outside consultant on board to help move things along more quickly.
   a. Status of Hemmerling and Hoffer review. We have since been told by BE that they will only review one project at a time, so only the plan for Hemmerling is currently accepted for review, and all projects are on hold until Coombs is resolved. Please recall, Hemmerling and Hoffer drawings were submitted at the last sit-down meeting with BE some months ago. It took much longer than expected to get the comments back, and the District has been unable to get precise direction.

2. The City’s Consultant, RHA, has completed their Power Quality Analysis at the Coombs site and has presented solutions for increasing Reactive Power – kVar at Coombs Alternative Ed. Their report showed that there is a need to increase the Power Factor at the Coombs site, especially when the solar PV system is engaged.
   a. The solution for the Coombs solar project is the placement of Two Static Var Generators.

3. A need to revise Central, Nicolet, and Banning HS Solar PV Interconnect applications to reflect the increase in kW due to design changes. Ben said to hold off submitting revised applications until they are reviewing the site in question. This further indicates BE is only reviewing one site at a time (drawings, interconnect, everything).

4. We would like for Engie to submit Central, Nicolet, and Hoffer drawings which include the Power Factor issue for BE review.
   a. Solar projects at all sites will probably need to include RHA’s kVar solution for the Power Factor and Reactive Power to be in sync when the solar PV systems are engaged.

Board of Education • Alfredo Andrade • Anne K. Price • Alex Cassadas • Kerri Mariner • Jason Smith

161 W. Williams Street, Banning, CA 92220 • Ph (951) 922-0200 • FAX (951) 922-0227 • www.banning.k12.ca.us
5. Florida design questions. In order to complete the design, and regarding the District’s future plans to tie in solar to the Florida Discovery Center, we have a few questions that we would like BE’s input on.

   - We need some Existing Utility side information
     - What size, type, and capacity is the utility transformer?
     - What are the feeder size and type from transformer to building electrical gear?
   - We have provided electrical single line drawings that we are considering
     - What is the process on the utility side to upgrade single phase transformer and gear to 3 phase?
     - Are there any potential issues with the options shown in the single line drawings?

6. Banning High School 15-minute interval data request in order to complete an analysis for a battery storage in lieu of continuing with a diesel generator for electrical power loss.

7. Over the phone, Ben had indicated to Vince (with Engie) that BE was changing the solar interconnect rules next year but said something along the line of “from one government agency to another, we’ll work it out.” We should sit down to have a better understanding of this and to work it out asap.

We appreciate your time to review this list of requests and I look forward to hearing from you with possible dates for a follow-up meeting regarding all of the above. If you have any questions please feel free to contact Kookie Williams or myself.

Sincerely,

Robert Guillen
Superintendent
TO:                CITY COUNCIL

FROM:        Douglas Schulze, City Manager

PREPARED BY: Jim Steffens, Power Resources & Revenue Manager
               Tom Miller, Electric Utility Director

MEETING DATE: February 26, 2019


RECOMMENDED ACTION:

The City Council consider adopting Resolution 2019-xx:

1. Temporarily suspending the Electric Utility rate restructuring, as outlined in Resolution 2018-130, for master-metered mobile home parks only.

2. Authorizing the Electric Utility Director or his/her designee(s) to reinstate the rate restructuring for master-metered mobile home parks once the City Attorney has indicated that all applicable issues have been resolved and all regulations adhered to.

BACKGROUND:

On October 23, 2018 the City of Banning City Council passed Resolution 2018-130, amending the residential rate structure, modifying low income and medical discounts, and indefinitely suspending the low-income senior discount and street light utility charges. This rate restructuring is scheduled to begin implementation on March 1, 2019.

The Electric Utility has approximately seven (7) master-metered mobile home parks as customers. Master metered means that there is only 1 City Electric Utility meter for the whole mobile home park. The Electric Utility bills the mobile home park based upon the readings from this one meter. The mobile home park has their own meters set up at each mobile home residence, and the mobile home park bills their customers based upon these meters. There are State regulations that dictate how the mobile home parks can pass along to their customers the charges that the parks are charged by the Electric Utility.
The City Attorney has been researching what implications the rate restructuring will have on the master-metered mobile home parks. The City Attorney has concluded that it would be prudent to temporarily suspend the rate restructuring for master-metered mobile home parks until he has had time to finish researching the issue, and until the mobile home park owners have had time to adjust their billing practices to comply with the applicable regulations.

**FISCAL IMPACT:**

The fiscal impact to the Electrical Utility will be minimal. The rate change was a restructuring, and was not designed to change the revenues that the Electric Utility would be collecting.

**ALTERNATIVE:**

1. Reject Resolution 2019-xx and provide direction.

**ATTACHMENTS:**

1. Resolution No. 2019-xx

Approved by:

[Signature]

Douglas Schulze
City Manager
ATTACHMENT 1
Resolution 2019-xx
RESOLUTION 2019-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, TEMPORARILY SUSPENDING THE ELECTRIC UTILITY'S RATE RESTRUCTURING FOR MASTER-METERED MOBILE HOME PARKS ONLY

WHEREAS, the City of Banning owns and operates its Municipal Electric Utility; and

WHEREAS, on October 23, 2018 the City of Banning City Council passed Resolution 2018-130, amending the residential rate structure, modifying low income and medical discounts, and indefinitely suspending the low-income senior discount and street light utility charges; and

WHEREAS, the new rate structure is set to be implemented on March 1, 2019; and

WHEREAS, there are State regulations dictating how master-metered mobile home parks are to resell the electricity that they buy from the Utility to their mobile home park customers; and

WHEREAS, the City Attorney is researching this issue, and concluded that it would be prudent to temporarily suspend the rate restructuring for master-metered mobile home parks until he has had time to finish researching the issue, and until the mobile home park owners have had time to adjust their billing practices to comply with the applicable regulations.

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

SECTION 1. The Council hereby temporarily suspends the Electric Utility rate restructuring, as outlined in Resolution 2018-130, for master-metered mobile home parks only.

SECTION 2. The Council hereby authorizes the Electric Utility Director or his/her designee(s) to reinstate the rate restructuring for master-metered mobile home parks once the City Attorney has indicated that all applicable issues have been resolved and all regulations adhered to.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.
PASSED, APPROVED AND ADOPTED this 26th day of February, 2019.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND
LEGAL CONTENT:

Kevin G. Ennis, Esq. City Attorney
Richards, Watson & Gershon
CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-xx, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2019, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Daryl Betancur, Deputy City Clerk
City of Banning, California